

The Poor Law of Lunacy:

The Administration of Pauper Lunatics in Mid-Nineteenth Century England

with special Emphasis on Leicestershire and Rutland

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Abstract

Previous historical studies of the care of the insane in nineteenth century England have been based in the history of medicine. In this thesis, such care is placed in the context of the English poor law. The theory of the 1834 poor law was essentially silent on the treatment of the insane. That did not mean that developments in poor law had no effect; only that the effects must be established by examination of administrative practices. To that end, this thesis focuses on the networks of administration of the poor law of lunacy, from 1834 to 1870.

County asylums, a creation of the old (pre-1834) poor law, grew in numbers and scale only under the new poor law. While remaining under the authority of local Justices of the Peace, mid-century legislation provided an increasing role for local poor law staff in the admissions process. At the same time, workhouse care of the insane increased. Medical specialists in lunacy were generally excluded from local admissions decisions. The role of central commissioners was limited to inspecting and reporting; actual decision-making remained at the local level. The webs of influence between these administrators are traced, and the criteria they used to make decisions identified.

The Leicestershire and Rutland Lunatic asylum provides a local study of these relations. Particular attention is given to admission documents and casebooks for those admitted to the asylum between 1861 and 1865.

The examination of the asylum documents, the analysis of the broader relationships of the administrators, and a reading of the legislation itself, all point up tensions between ideologies of the old and new poor law in the administration of pauper lunacy.

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Note on Citation and Terminology

The names of the authorities overseeing responsible both for lunacy-related matters and the poor law generally changed at various times, so the following guide may be of assistance.

From 1834 to the end of 1847, the central authorities with responsibility for poor law matters were the Poor Law Commissioners. They were replaced from the beginning of 1848 by the Poor Law Board. They, in turn, were replaced in 1871 by the Local Government Board, a body with broader jurisdiction. In the following chapters, I have used the generic "poor law central authority" for these authorities.

As for the lunacy central authority, the Metropolitan Commissioners in Lunacy were created in 1828 with jurisdiction to license and inspect private madhouses in the greater London area. They were authorized in 1844 to conduct a nation-wide inspection of madhouses and county asylums, preliminary to the enactment of new lunacy legislation in 1845. The 1845 acts continued this national inspection role, and re-named them the Commissioners in Lunacy. Prior to 1845, the name 'Commissioners in Lunacy' had referred to officials at the Court of Chancery; the 1845 statutes re-named this latter group 'Masters in Lunacy'. As there is no call to refer to the Chancery jurisdiction in this dissertation, the phrase 'Commissioners in Lunacy' has been used to refer both to the post-1844 commissioners and, when a generic is required, to the Metropolitan Commissioners as well.

There is one brief comment about the citation of parliamentary papers. These papers were published separately, and incorporated into bound volumes, paginated by hand. In some archives and libraries, the unbound papers continue to exist. I have adopted the practice that the first page reference in a citation refers to the hand-written

pagination within the volume, while page references within the parliamentary paper itself refer to the printed pagination in the report. For example, in the cite 'PP 1850 (735) xxiii 393 at 26', the '393' refers to the handwritten pagination of volume twenty-three, and the '26' refers to the printed pagination within the paper itself.

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Introduction

Twentieth century scholars have generally viewed the care of the insane in mid-nineteenth century England in the context of the history of psychiatry. In these accounts, the enlightenment reached the insane at about the end of the eighteenth century, and the bestial images of lunacy which accompanied the whips and chains of earlier establishments gave way to new forms of treatment which acknowledged the humanity of the lunatic. This transition was concurrent with the rise of the medical profession. Metaphors of demonic possession gave way to diagnoses of illness as doctors consolidated their sole authority in the field of lunacy. Concurrent in turn with this professionalization had been the rise of a trade in madness in eighteenth-century England, as medical men turned their authority to business advantage by opening profit-motivated private madhouses for the care of the insane. The care provided in these private facilities was increasingly challenged by humanitarian reformers as cruel in nature and inadequate in scale. Asylums established as philanthropic endeavours on the model of voluntary hospitals were unable to provide care on a sufficient scale. As governments were convinced of the need for more and better regulated care, new county asylums were built, staffed by medical specialists. It was, at least initially, a triumph of reform.

This factual structure is remarkably consistent between traditional "Whiggish" and revisionist accounts.¹ Those versions differ not on the basic factual structure, but rather on the interpretation to be put on those facts, or the subsequent implementation

¹The account is challenged, however, by some eighteenth-century historians of medicine who object to the uncritical use of what they see as a nineteenth century caricature of the eighteenth century treatment of the insane: see, for example, Roy Porter, Mind-Forg'd Manacles, (1987; rpt. Harmondsworth: Penguin, 1990) at 276 ff. and *passim*.

of the system. Apologists for the changes emphasize the horrors of the eighteenth century madhouse and the humanitarian objectives of the reformers. Critics may stress the unfortunate results of these benevolent motivations,² the professional interests of the psychiatrists,³ or the social control implications of the process.⁴ Either way, the medical professionals, and the asylums and madhouses which they ran are central to the analysis. The fact of the attainment of power by these medical specialists is never questioned. The recent revisionist schools question how, not whether, this occurred.

When that basic fact is challenged, it is shown to be remarkably tenuous. The chapters which follow review the statutes and administrative structures involved in the construction of county asylums and the confinement of the insane in them. This analysis shows that the asylum doctors had little role in deciding how asylum construction would occur, and who would be placed in or removed from county asylums. The Lunacy Commissioners, the central authority credited with providing focus to the reform movement, similarly had almost no formal power. Throughout the nineteenth century, decisions regarding the construction of county asylums and confinement in them rested with local Justices of the Peace and poor law officials. In addition, the vast bulk of those confined in county asylums were paupers. The

²For example, David Rothman, The Discovery of the Asylum, (Boston: Little Brown, 1971) and Conscience and Convenience, (Boston and Toronto: Little, Brown and Co., 1980).

³American sociologist Andrew Scull has argued this position most forcefully in the context of nineteenth century England; see for example Museums of Madness (1979; rpt. Harmondsworth: Penguin, 1982); "Humanitarianism or Control? Some Observations on the Historiography of Anglo-American Psychiatry". In Social Control and the State ed. Cohen and Scull, (1983; rpt Oxford: Blackwell, 1985); "Mad-doctors and Magistrates: English psychiatry's struggle for professional autonomy in the nineteenth century". 17 Arch. Europ. Sociol. (1976) 279; Social Order/Mental Disorder (London: Routledge, 1989); The Most Solitary of Afflictions, (New Haven and London: Yale University Press, 1993). For continuation of these themes into the twentieth century, v. Scull, Decarceration 2nd ed. (Englewood Cliffs, N.J.: Prentice Hall, 1984; and Oxford: Basil Blackwell Ltd., 1984).

⁴See the works by Scull, above. Michel Foucault can also be seen in this vein: Madness and Civilization, trans Richard Howard, (New York: Random House, 1965), especially at chapter 9.

county asylum was essentially a poor law institution. As such, it is juxtaposed, not with the private madhouse and the charitable hospital, but with the union workhouse and outdoor poor relief. At issue is not simply a question of segregating the mad, for the insane poor were cared for under each of these branches of the poor law. At issue is rather understanding the relationships between these institutions.

That is the focus of this dissertation. At issue is how pauper lunacy was administered, and how lunacy fit into the broader scheme of the nineteenth century poor law. Inconsistent administrative models contained in the statutes conferred authority on a variety of local officials, inspected by two central authorities. The result was less hierarchical power structures based on legal fiat than webs of influence between the various administrators. Where other histories of nineteenth century madness have focused on the asylum medical professionals essentially in isolation from the officials who administered the relevant legislation, this thesis places them in their context as a part of an administrative network, and a relatively unimportant part of that network at that.

This thesis focuses on the period from 1834 to 1870. The association between poor law and lunacy extends back into the eighteenth century and before, and continues into the twentieth. The temporal focus was chosen for various reasons. A logical starting point seemed to be 1834, with the enactment of the new poor law. The legislative basis of the county asylum movement pre-dates this by a quarter of a century, but asylums constructed prior to the establishment of the new poor law tended to be small and few in number. The twenty years after the enactment of the new poor law, and particularly the period after county asylums became mandatory in 1845, represents the beginnings of large-scale identification and specialized treatment of the insane poor. The 1845 act also established a Lunacy Commission which published annual reports and whose archives survive, and changed record-keeping procedures at the local level. The result is that most remaining lunacy documents date from after this period.

The study ceases in 1870. By that time, the county asylum system was well

established, allowing for consideration of its relatively large-scale operation, not merely its formative years. The central poor law administrative structure changed in 1871 with the introduction of the Local Government Board, so that extending it further would require addressing a somewhat different administrative structure. On the other hand, extending the thesis through the 1860s allowed access to a wider variety of documents in Leicester, my area of local study. A complete set of admission documents and case books survive for the period 1861 through 1865, and a close study of these forms the basis of chapter five below.

In addition, 1870 seems to provide a dividing point in poor law history. The founding of the Charity Organization Society began to suggest the acknowledgment within the poor law of a more structured and formal role for private benevolence. Garland cites social work, criminology and eugenics as having their genesis at about that time.⁵ With the charity work, mixed with social work and criminology, a new intellectual structure centring on the individual as a "case" appears. It is tempting to argue that asylum case books and admission documents were earlier progenitors of this technique; for reasons of practicality, this has not been attempted. In addition, the rise of eugenics in the last thirty years of the century has obvious ramifications to lunacy policy, such that continuation after 1870 would considerably expand this project. Further, commencing with the 1880s with the Idiots Act,⁶ there begins an institutional diversification of the poor law and asylum movement. To continue beyond 1870 would require these developments to be addressed, and thus the expansion of the time frame well into the twentieth century.

The work of Andrew Scull warrants consideration at this point, both because it exemplifies the problems of the factual structure identified above, and also as the most influential revisionist history of the nineteenth century English asylum to date,

⁵David Garland, Punishment and Welfare, (London: Gower, 1985) in part II.

⁶Idiots Act, 1886, 49 Vict. c. 25.

it forms a particularly close point of juxtaposition to the argument in this thesis.⁷ For Scull, the nineteenth century saw the creation of the mad as a distinct deviant population, and their confinement in establishments controlled by the medical profession:

At the outset of the period, [i.e., in the mid-eighteenth century] mad people for the most part were not treated even as a separate category or type of deviants. Rather, impoverished madmen were assimilated into the much larger, more amorphous class of the morally disreputable, the poor, and the impotent, a group which also included vagrants, minor criminals, and the physically handicapped; and their richer (though not necessarily more fortunate) counterparts were for the most part coped with by their families. ... By the mid-nineteenth century, however, virtually no aspect of this traditional response remained intact. The insane were clearly and sharply distinguished from other 'problem populations'. They found themselves incarcerated in a specialized, bureaucratically organized, state-supported asylum system which isolated them both physically and symbolically from the larger society. And within this segregated environment, now recognized as one of the major varieties of deviance in English society, their condition had been diagnosed as a uniquely and essentially medical problem. Accordingly, they had been delivered into the hands of a new group of professionals, the so-called 'mad-doctors'.⁸

The act which made county asylums mandatory in 1845 is perceived as a triumph of humanitarian reform, a movement which allied medical professionals and lay reformers. The asylum, under the control of the medical superintendent, was the result.

Scull departs from previous histories in his acknowledgment of the effect of

⁷The following discussion is based primarily on Scull's recent book, The Most Solitary of Afflictions, *supra*. This is a much revised and extended second edition of his pioneering 1979 work, Museums of Madness, *supra*.

⁸The Most Solitary of Afflictions, *supra* at 1 f.

economic changes on the creation of the asylum, and his assessment of the implementation of reform. After having manoeuvred their way to power in the care of the insane, the medical professionals were unable to fulfil their promises of high cure rates. The curative asylum was increasingly shown to be a chimera, and asylums became mere "museums for the collection of insanity", "warehousing" patients.⁹ This failure of the ideals of reform did not stop the growth of the asylums, nor did it challenge the authority of the medical superintendents of the asylums, who had already secured their position as the sole persons qualified to treat the insane. Changed economic circumstances had left the poor little option but to send their insane and enfeebled relatives to the asylum, turning the asylum into "a handy place to which to consign the disturbing, the vaguely menacing, the unwanted, and the useless-- those potentially and actually troublesome people who posed threats to the social order and to the business of daily living which were not readily subject to control by the legal system."¹⁰ Scull's work is thus an account of the rise of professional power of doctors, and the failed promise of humanitarian reform.

There is much in Scull's account which is convincing. Asylum doctors were certainly attempting to consolidate their position in the care of the insane, and Scull's work has many useful insights into that process. Scull largely assumes rather than demonstrates the centrality of the medical profession to the care of the nineteenth century insane, however, and yet his own work provides a challenge to that assumption. When asylum doctors crossed the county magistrates, they were dismissed or forced to resign.¹¹ He claims that a specialized alienist literature in the first half of the nineteenth century "made it difficult for outsiders to avoid concluding that considerable expertise had already been developed in the handling and treating of the insane, and that existing knowledge was in the process of being further refined

⁹The Most Solitary of Afflictions, *supra*, particularly at chapter 6.

¹⁰The Most Solitary of Afflictions, *supra*, at 352.

¹¹The Most Solitary of Afflictions, *supra*, at 247 f., 251n.

and extended."¹² Certainly there was a burgeoning medical literature on insanity through the eighteenth and nineteenth centuries, but it was largely written by doctors for other doctors. The degree to which outsiders were influenced by this literature is at best uncertain. Even the Lunacy Commissioners, argued by Scull to be supporters of the medical cause,¹³ defended the presence of lawyers and lay persons in their number,¹⁴ suggesting that the commissioners were loathe to acknowledge a medical monopoly in the field of insanity. Scull himself quotes their chair, Ashley (after 1851, the seventh Earl of Shaftesbury) as stating that "it having been once established that the insanity of a patient did not arise from the state of his bodily health, a man of common sense could give as good an opinion as any medical man he knew [respecting the treatment and the question of his sanity]".¹⁵ Scull eventually comments:

At the close of the nineteenth century, however, the professional status of asylum doctors remained distinctly questionable. Conspicuously mired in the status of salaried employees, and forced to confront and cope with a clientele consisting almost entirely of the least attractive members of the lower orders of society, they shared with similarly situated groups like workhouse doctors and public health officers at best a tenuous hold on social respectability and but a paltry measure of the autonomy usually granted to those engaged in professional work.¹⁶

¹²Most Solitary of Afflictions, *supra*, at 234. For similar claim about the late eighteenth century, v. 184.

¹³Most Solitary of Afflictions, *supra*, at, for example, 230, 246.

¹⁴See, for example, testimony of William Lutwedge before the Select Committee on Lunatics, PP 1859 2nd sess. (156) vii 501 at questions 2090-2095.

¹⁵Most Solitary of Afflictions, *supra*, at 211, quoting Hansard, vol. 61, 3rd. ser., 1842, col. 806. Square brackets in Scull's text. Scull further acknowledges, "Actually, this was far from being the last occasion on which he [Shaftesbury] cast doubt on the medical profession's capacities in the diagnosis and treatment of insanity", citing further examples from 1859 and 1862: Most Solitary of Afflictions, *supra*, at 211n.

¹⁶Most Solitary of Afflictions, *supra*, at 382.

For Scull, the medico-humanitarian vision went somehow horribly wrong. Instead of humanitarian care, reform resulted in "the creation of vast receptacles for the confinement of those without hope".¹⁷ The medical and humanitarian aspects became almost a sham, as Scull claims that "the medical control of asylums, and the propaganda about treatment rather than punishment, served to provide a thin veneer of legitimation for the custodial warehousing of these, the most difficult and problematic elements of the disreputable poor."¹⁸ If the development of the law relating to lunatics in the nineteenth century were not merely the function of humanitarian and medical pressures, however, so the "success" or "failure" of the reforms could not reasonably be expected simply to conform to those models. If, as will be argued below, doctors and reformers were not central to the growth of the asylum, if cures were not the concern and perhaps not even particularly expected, and if asylums were actually about something else, the gap between aspirations of reformers and medical men and the implementation of the system would not be illuminating.

Scull points out that the medical profession was unable to produce cures,¹⁹ a fact chronicled in the annual and special reports of the Lunacy Commission. He argues, however, that neither the public nor the poor law officials were interested in cures:

If the attractions of a convenient institution in which to dump the troublesome and undesirable sufficed to ensure at least the passive acquiescence of the asylum doctors' true clients, the families and parish officials, in their continued existence, their nominal clients, the asylum's inmates, had little choice but to cooperate in sustaining their definition of the situation. ... Once they [the medical professionals] had secured control over asylums, they no longer had to attract clients -- the institution did that for them. And once patients were

¹⁷Most Solitary of Afflictions, *supra*, at 333.

¹⁸Most Solitary of Afflictions, *supra*, at 332.

¹⁹Most Solitary of Afflictions, *supra*, at 245 f.

obtained, they formed literally a captive audience held in a context which gave immense power to their captors.²⁰

If the interests of the "true clients" lay elsewhere, however, why should the medical profession and reformers occupy a central place in the history of the asylum? Scull is right to place the rise of the asylum in the broader context of economic disruption of the eighteenth and early nineteenth centuries; but such a placement argues for consideration of the asylum in the context of other nineteenth century social policy, which grew out of precisely the same circumstances; and given that the lunatics confined in the nineteenth century were overwhelmingly poor, the poor law should be central to that analysis.

The association of the county asylum with poor law is not an entirely novel approach: Busfield,²¹ Rothman, Scull, and Jones²² all refer to the importance of the poor law in the roots of the care of the insane. Yet even Scull, who places himself in opposition to the "naive Whiggish view of history [of the asylum movement] as progress"²³ and who turns to the language of Marxism and the theory of the poor law for part of his argument regarding the growth of asylums, does not examine the practical interrelations between the administration of poor law and lunacy law. For Scull and others, the specifics of the poor law were something from which the administration of the insane was to be distinguished and to which it was to be juxtaposed. There is the occasional remark about "lunatics who had formerly starved and rotted in workhouse cellars",²⁴ but serious analysis of the care of the insane under the poor law is entirely lacking. This is particularly surprising since as the

²⁰Most Solitary of Afflictions, *supra*, at 245.

²¹Managing Madness: Changing Ideas and Practice, (London: Hutchinson, 1986).

²²Lunacy, Law, and Conscience, 1744-1845: The Social History of the Care of the Insane, (London: Routledge & Kegan Paul, 1955).

²³Museums of Madness, *supra*, at 14.

²⁴The Most Solitary of Afflictions, *supra*, at 133.

nineteenth century progressed, the insane in workhouses increasingly outnumbered those in the private madhouses which are an important part of Scull's analytical structure.²⁵

This thesis focuses directly on the interrelation between poor law and lunacy law. Clearly there were radical changes in the social policy relating to lunacy in the nineteenth century, but the explanation of those changes is not to be found in the rise in status and humanitarian interventions of the medical profession; it is rather to be understood in the context of the great nineteenth-century poor law reform, and the introduction of the new poor law in 1834. The 1834 act in theory did not affect lunacy. The county asylums legislation was essentially unamended between 1828 and 1845, and even the 1845 act did not alter the basic managerial structure of asylums. The 1834 act was pivotal in other ways.

First, it replaced the old system of relief based on parishes with a new administrative unit, the union. Management of the poor law was therefore changed from local Justices of the Peace to boards of guardians, elected by the ratepayers. While magistrates continued to have a place *ex officio* on rural boards of guardians, their powers were significantly curtailed. At least in theory, the new poor law also signalled an ideological movement away from the paternalist notions of the old poor law, toward a system of faceless administration, imposing moral choices and moral judgments on the poor. The exclusion of the county asylum from these provisions meant that it remained one of the few remaining points of magisterial control in the poor law. In this context, the asylum became a reaction to the new poor law, even from within the poor law itself, a fiefdom for the magistrates. A discourse appeared, portraying the county asylum as humanitarian, juxtaposing it to the rigours of the punitive workhouse, and reflecting the paternalism of the old poor law.

²⁵On 1 January 1859, there were 5016 insane persons in private madhouses, and 7,963 in workhouses; by 1 January 1891, the numbers in private madhouses had slightly decreased to 4547 and the insane persons in workhouses had more than doubled to 17,825. Source of statistics: Thirty-Sixth and Forty-Fifth Annual Reports of the Commissioners in Lunacy, respectively PP 1882 (357) xxxiii 1 and PP 1890-1 (286) xxxvi 1.

Secondly, the new poor law ideology imposed a moral judgment onto the pauper. Paupers were deemed to be individuals capable of deciding in their own best interests, and the poor law system was structured to induce the pauper to choose a life of morality and wage labour. This was reflected in the appeal of moral management in the asylum: work had therapeutic value, and the pauper insane were to be taught a trade. The people sent to the asylum were often portrayed in the asylum case books in morally judgmental ways reminiscent of the new poor law discourse. The causes of insanity might be viewed in moral terms. Notwithstanding the paternalist language noted above, this constituted an intersection in the attitudes of the asylum aims and the poor law.

Thirdly, and consequent on the new administrative divisions, the 1834 act created a professional poor law staff at the local level. Gone were the voluntary parish overseers of the old poor law. Most significant for present purposes were the creation of paid relieving officers and medical officers, as these officials were in charge of preparing the documentation to go to the Justice for the admission of a pauper to the asylum. Furthermore, it was poor law medical officers in 1845 who were charged with the duty to visit every pauper lunatic not in an asylum on a quarterly basis. Administration of pauper lunacy became a matter of routine within the new poor law bureaucratic structures.

The closer focus on the administrative actors in this process has ramifications for the context of discussion. At issue is not merely, as for example in Foucault, an abstract formulation of power, but rather the creation and uses of power by the specific individuals involved, in their specific political context. Part of this involves interclass relations: the asylum like the rest of the poor law was directed to the appropriate treatment of the poor, and the strategies of power used in this context are certainly relevant. At the same time, there are intra-class issues, the strategies of the various actors to protect or increase their power or authority vis-à-vis other actors. As a concrete example, it will be argued that one reason for the success of the county asylums was their control by the Justices, whose authority was under threat from the poor law. In some sense, the rise of the asylum was a symbol of the power of the

Placement in this specific political context limits the direct relevance of scholarship based on other countries. The two most significant casualties are the work of Robert Castel on France,²⁶ and David Rothman on the United States.²⁷ Castel places institutionalization in nineteenth-century France in the specific context of the theoretical problems faced following the French Revolution, the abolition of lettres de cachet, and the displacement of the traditional powers of the monarch and the church. Rothman's account is placed in the context of the demise of colonial society in Jacksonian America. The political environments thus do not match that of England. The subtexts of the English debate include the continuation of paternalism, the tension between local and central bureaucratic control, the movement to an industrialized society, and, the politics of the new poor law, themes absent from the French and American debates. While the broad theoretical issues in the work of Castel and Rothman remain of interest, the differences in political culture preclude close historical analogy about specific developments.

Studies of English administration are more relevant, and particularly those concerning the administrative wrangles associated with the poor law. The so-called nineteenth century revolution in government has provided sporadic discussion for much of the twentieth century. The debate flows from A.V. Dicey at the beginning of the twentieth century, and has trundled along with varying degrees of enthusiasm since that time. As befits a tradition of that longevity, various themes have developed. Dicey divided nineteenth century administration into three periods. From 1800 to 1830 was a period of "quiescence" and minimal legislative intervention of any sort; 1830 to 1870 represented an period of individualism, where legislation focused on the removal of constraints to individual liberty; and 1870 to 1900, a time of collectivist

²⁶The Regulation of Madness, trans. W.D. Halls, (Cambridge: Polity, 1988).

²⁷The Discovery of the Asylum, and Conscience and Convenience, both supra.

legislation.²⁸ Subsequent scholars pointed out that 1830 to 1870 was in fact a period of considerable government intervention.²⁹ Anthony Brundage claims that between 1830 and 1837, "the Whigs presided over one of the most extraordinary periods of government growth in British history,"³⁰ an enthusiasm which continued for much of the remainder of the century. In the middle years of the century, Westminster was active in legislating over a wide range of issues: nuisances, factories, child welfare, labour law, education, local government, criminal law, matrimonial law, public health, vaccination, censuses, birth and death registration, and of course, poor law and lunacy law.

Scholars have not necessarily challenged the view of individualism as the prevailing ideology. One strand of debate developed as to how laissez-faire as the prevailing ideology could be understood alongside the growth in government intervention that the legislation and resulting bureaucracy implied.³¹ In some cases, this has involved marginalizing the ideological debates, and positing the rise in government intervention as related primarily to a response to practical situations.³² Other scholars seem to have moved away from the fixation on laissez-faire as the controlling ideology for the mid-nineteenth century. Thus for Martin Wiener, the state

²⁸Lectures on the Relation between Law and Public Opinion, (London: Macmillan, 1905).

²⁹See, for example, Henry Parris, Constitutional Bureaucracy, (London: George Allen & Unwin, 1969) at 258 ff.; Derek Fraser, The Evolution of the British Welfare State, 2nd ed. (Basingstoke: Macmillan, 1984) at 110 f.; William C. Lubenow, The Politics of Government Growth, (Newton Abbot: David & Charles, 1971); Oliver Macdonagh, Early Victorian Government, (London: Weidenfeld and Nicolson, 1977); Oliver MacDonagh, "The Nineteenth-Century Revolution in Government", 1 The Historical Journal (1958) 52.

³⁰England's "Prussian Minister" (London and University Park: Pennsylvania State University Press, 1988.) at 13.

³¹e.g., Burn, Age of Equipoise: A Study of the Mid-Victorian Generation, (1964; rpt. New York: Norton, 1965) at chapter 4, especially 132 ff.; Henry Parris, Constitutional Bureaucracy, *supra*, at 268 ff.

³²e.g., Fraser, Evolution of the British Welfare State, *supra*, at 117, 120 f.

was to provide guidance, not merely to punish offenses, and law became "the most powerful national schoolmaster."³³ Mitchell Dean claims, "Police becomes no longer simply the condition of order in a community but the prosperity, health, welfare, and security of the totality of human life within that community, the population."³⁴

Some formulations have implicitly or explicitly associated the revolution with centralization of power at Westminster. Such accounts focus not merely on the legislative activity at the central level, but also on the growth of a centralized bureaucracy. Oliver Macdonagh's five step model of legislative reform³⁵ for example sees the creation of these bureaucracies in terms of increasing centralized responses to situations perceived as intolerable, after a realization that simple legislation without an enforcement mechanism was insufficient to correct the impropriety. Henry Parris claims that in the new alignment of power in the nineteenth century, "the monarchy rose above party, so the civil service settled below party. Constitutional bureaucracy was the counterpart of constitutional monarchy."³⁶ A second strand of the debate surrounding the revolution in government challenges this centripetal movement of power. William Lubenow's work in the early 1970s,³⁷ instead placed the issue of division of power between local and central authorities as central in the understanding of nineteenth century administration.

Lubenow's formulation is not without its persuasive merit. The central bureaucracy remained numerically small by continental standards in the early and mid-

³³Reconstructing the Criminal, (Cambridge: Cambridge University Press, 1990) at chapter 2. The quotation is at page 46.

³⁴The Constitution of Poverty, (London: Routledge, 1991) at 62. Note that for Dean, 'police' is a term of art which does not refer primarily to crime control or police forces in the twentieth century sense, but rather to the science for the maintenance of social order generally.

³⁵In "The Nineteenth-Century Revolution in Government: A Re-Appraisal", supra.

³⁶H. Parris, Constitutional Bureaucracy, supra, at 49.

³⁷The Politics of Government Growth, supra.

Victorian period, and, at least in the cases of the poor law and lunacy central authorities, had minimal concrete power. Centralization was a long-standing battle, waged on a variety of fronts and far from a foregone conclusion in the period of this dissertation. Thus for example it was not until 1877 that the central government assumed control over local prisons,³⁸ and not until 1867 that the Poor Law Board was made permanent.³⁹ The central control over both poor law and lunacy did not come from the creation of the central bureaucratic structures, as these never had the legal or financial resources to require compliance with their orders. Rather, the control resulted from the contribution of funds to pay for poor law and lunacy, providing a motivation for local authorities to co-operate with the central government. Thus contributions were made to the salaries of poor law medical officers and teachers commencing in the 1845 and 1848 respectively.⁴⁰ A per diem contribution from the central government for the upkeep of lunatics in asylums commenced in 1874. These payments no doubt increased the influence of central government at the local level. They were perceived to do so and were controversial in some quarters as a result,⁴¹ but these payments did not result in a complete loss of local control. Local authorities maintained control over admission to facilities well into the twentieth century.

Power thus remained largely within the local élites, with the local boards of guardians and Justices of the Peace in Quarter Sessions. The Justices were drawn

³⁸Garland, Punishment and Welfare, *supra*, at 10. Corporal punishments remained in local control until even later.

³⁹30 & 31 Vict., c. 106. Prior to this, the Board was subject to renewal every three to five years.

⁴⁰For medical officers, see Ruth Hodgkinson, The Origins of the National Health Service: Medical Services of the New Poor Law, 1834 - 1871, (London: Wellcome Historical Medical Library, 1967) at 476. For teachers, see M.A. Crowther, The Workhouse System 1834-1929, (1981; rpt. London: Methuen, 1983) at 131.

⁴¹At the 1876 Poor Law District Conference, for example, a motion passed to ask government to make the per diem payments for the insane also payable for insane persons in workhouses. One of the key issues at that time is the loss of local control this will entail for the local boards of guardians: Report of Poor Law District Conferences, 1875, (London: Knight, 1876) at 177 ff.

early in the nineteenth century from the ranks of the local gentry and clergy, with local merchants and factory-owners increasingly replacing clerical appointments as the century progressed.⁴² The boards of guardians seem to have been drawn from similar ranks.⁴³

A more recent twist to the debate squarely addresses the question of administrative efficacy. In his analysis of the nineteenth century factories and mines inspectorates, P.W.J. Bartrip⁴⁴ argues that the number of inspectors hired to enforce legislation was sufficiently small, that it is doubtful whether the legislation had a significant effect at all, and that perhaps Dicey was correct all along in portraying the period as one of essentially laissez-faire. The difficulty with taking the argument to this extreme is that efficacy is judged in terms of the size of the budget for enforcement:

It is difficult to judge the extend of industrial regulation in a totally convincing way. Perhaps the best quantitative guide to intervention is through assessment of the level of state resources devoted to implementation.⁴⁵

Bartrip is right that efficacy cannot be assumed from the passage of legislation; but it does seem equally capricious to dismiss the possibility of statutory compliance absent enforcement mechanisms in a note, because it is "unmeasurable".⁴⁶ It will be

⁴²Philips, "Black Country Magistracy 1835-60", 3 Midland History (1976) 161, and H. E. Zangerl, "The Social Composition of the County Magistracy in England and Wales, 1831-1887", 9(1) Journal of British Studies (1971) 113. Regarding the general point about the slowness of centralization, the former article is also on point.

⁴³See Brundage, Prussian Minister, supra at 32, Brundage, Eastwood and Mandler, "The Making of the New Poor Law Redivivus", 127 Past and Present 183 at 185.

⁴⁴"State Intervention in Mid-Nineteenth Century Britain", 23 Journal of British Studies (1983) 63.

⁴⁵Bartrip, "State Intervention in Mid-Nineteenth Century Britain", supra, at 81.

⁴⁶Bartrip, "State Intervention", supra, at 81n.

argued below in chapter six that the Lunacy Commission used their annual and special reports as vehicles to press publicly for improved institutional standards. The efficacy of such an approach is difficult to assess, but it cannot be assumed to be negligible. In addition, it will be argued that the inspections and reporting by the Lunacy Commission acted along with other factors to create the sense of county asylums as constituting a national system of institutions, rather than a collection of local facilities. Such changes in perception are not measurable, but they are not thus rendered insignificant.

The nineteenth century revolution debate tends to adopt an essentially benign view of the state. As in the examples cited above, the state at least attempts to remedy social ills. There may be debate as to whether it was successful, but not about its basic motivation. This may in part result from the fact that much of this literature stems from a trend of work written in the 1960s examining the roots of the welfare state, a time when that concept enjoyed broad public and academic appeal. After the social control arguments of the 1970s and 1980s, this simply benign vision of the state appears curiously naive. The social control literature envisaged social organization as the control of the poor and deviant. Where the nineteenth century revolution literature spoke of administration, the social control literature spoke of power.

The argument in this dissertation has been influenced by the social control literature in this regard. Both the asylum law and the broader poor law placed the poor person in an administrative structure where the decision-makers were the magistrates and the poor law authorities. That is not merely an administrative relationship; it is also a power relationship, but several caveats are appropriate. It would be naive to think that the relationship was a simple one. While the attitudes of paupers and their families are difficult to judge as there is virtually no documentation left from them as to how they approached the system, it will be argued from anecdotal evidence in asylum case books that poor people may well have been at least occasionally manipulating the system to their own advantage. Poor people cannot simply be portrayed as inanimate. Further, no claims are made as to how successful the mechanisms were, and in particular whether the lower classes became

more docile as a result of their implementation.⁴⁷ This question is particularly problematic, since insofar as the workhouse may be understood as representing the punitive side of the poor law, and the asylum the benevolent side, they represented different strategies for social control.

The phrase 'social control' is itself problematic, as it seems to mean different things to different people.⁴⁸ Its own historical roots in twentieth century sociology have even been used to argue that its use in understanding earlier states is anachronistic.⁴⁹ For these reasons, the phrase appears likely to create more problems than it solves, and its use has been avoided hereafter.

The subject and nature of this thesis also require consideration of the work of Michel Foucault. Foucault is relevant for two reasons. First, there is the specific subject matter of his works: he wrote at length on madness and the roots of

⁴⁷v. F.M.L. Thompson, "Social Control in Victorian Britain", 34 Economic History Review (2nd ser.) (1981) 180. Thompson criticises the trend in the 1970s to extend the use of social control methodology into any situation where bourgeoisie and lower orders met. His prime example is education of the poor, but he also refers to control of lower class leisure and the regulation of public fairs. Apart from the efficacy question, he argues that in this sort of context, social control becomes indistinguishable from socialization, a criticism not particularly applicable to poor law and lunacy, where co-operation by the pauper was not necessarily optional in any meaningful sense. Regarding more blatantly coercive measures, a category in which poor law and lunacy seem to fit more closely, he comments, "If social control is used simply as another name for law and order it is scarcely a great leap forward." [at 199] That may well be true, so long as the coercive nature of the facility is acknowledged. It is less telling regarding institutions such as the workhouse, which were designed to create social effects, but were not overtly coercive: no one was legally forced to go into a workhouse, and anyone in a workhouse was entitled to leave. A level of sophistication is at work in such institutions beyond the mere perpetuation of "law and order".

⁴⁸v. John Mayer, "Notes towards a Working Definition of Social Control in Historical Analysis", in Social Control and the State, ed. Andrew Scull and Stanley Cohen, (1983; rpt. Oxford: Blackwell, 1985) at 17; Gareth Stedman Jones, "Class Expression versus Social Control?" in the same volume at 39; A.P. Donajrodzki, "Introduction" to Social Control in Nineteenth Century Britain, A.P. Donajrodzki, ed., (London: Croom Helm, 1977).

⁴⁹Dario Melossi, The State of Social Control, (Cambridge: Polity, 1990) at 1 ff. et passim.

psychiatry, on the creation of institutions, and on the nature of power and its pervasiveness. Secondly, and to be considered first, is the nature of his broader project, the archaeology of knowledge, which implies a methodology quite different from conventional historical studies.

Very briefly, Foucault is concerned with the technologies of power. Between roughly the eighteenth and the nineteenth centuries, he sees a change in the way power was manifest. Discipline and Punish, Foucault's study of the birth of the prison, begins by juxtaposing an account of an amende honorable in 1757 with the timetable of a prisoner's day from 1838.⁵⁰ Where the eighteenth century had seen social control through public spectacle and terror, the nineteenth hid punishment away, and saw the criminal as a malleable, docile. Where the eighteenth century sought to control the body, the nineteenth sought to control the soul. The individual became the object of study, of intervention, and of correction. Particularly in his later work, this was extended beyond deviant populations. Individual bodies were perceived as governable on a large scale. Where the eighteenth century had structured power in the command that individuals not transgress certain rules, the nineteenth had individuals conform to behavioural norms. Central to this new technique of power was the development of knowledge of human behaviour and how to amend it. Professions such as psychiatry, criminology and social work began to occupy increasingly important places in the maintenance of social order. As their truths were disseminated through the pedagogues of society, such as teachers, parents, priests, husbands and employers, so they become social norms of general currency.

It is the development of these knowledge bases which is pivotal for Foucault's method. He largely ignores the traditional landmark events of history. Notwithstanding the time span of Discipline and Punish, noted above, he barely mentions the French revolution. His focus is instead on the developing discourses of punishment, the institutions which grew out of them, and the power implied in that

⁵⁰Discipline and Punish, trans. Alan Sheridan, (New York: Random House, 1977) at 3 ff.

dialectic.

Foucault can thus be seen at the crossroads of social control theory and discourse analysis. Like postmodern discourse analysts, the creation of knowledge for Foucault is not merely the discovery of objective truth, but a subjective structuring: truth is a created product. The product exists not merely in an academic vacuum, however: it is the foundation upon which social power and social control operate.

It is time to identify some differences and acknowledge some debts to this Foucauldian method. While his sources and images are mainly French, the focus on the intersection of knowledge and power leaves Foucault with no theory of the state per se, as a separate concept. His work focuses on the nature of power and control in general since the eighteenth century, not to the operation of that power in a specific political structure. The result is an abstraction of the discourses he discusses out of their immediate political contexts. This provides a clear difference from the methodology of this dissertation, where the focus on particular administrative actors in a particularly English context requires an assessment of how discourses fit into specific power structures. Far from distancing the specifics of the English political situation, chapters two and three below will argue that the development of poor law and asylum law in the nineteenth century was a response to the dynamics of the particularly English administrative system, and chapters four through six will focus on the interrelations between specific groups of administrators: Justices, poor law officers, and central commissioners.

Like Foucault and the postmodern scholars, the discourses will not be perceived as mere passive accounts which record an objective truth of reality. The creative and structuring role of the texts is considered particularly regarding the asylum admission documents and case books. Where Foucault's focus is on relating the discourse of knowledge to a new technology of power, however, the documents in chapters five and six below are discussed in terms of their structuring of relations between administrators as much as between the insane and society. This suggests quite a different methodological project from Foucault. Where Foucault focuses on

disembodied discourses, the discussion of documents in this thesis is concerned with socially situated texts.

This in turn places a variety of thematic concepts in issue here, which Foucault can ignore. Interrelations between the administrators involved not merely the articulation of techniques of power, as discussed by Foucault, but also justifications for power: furtherance of a market economy, lowering taxes, keeping the peace, utilitarianism, evangelicalism, and paternalism, for example. The interrelations between these discourses and those discussed by Foucault are predictably varied. Some, at least implicitly, do reflect the technologies of power discussed by Foucault. Thus the creation of the poor law as a moral economy can be seen as essentially consistent with Foucault's theory regarding the discipline of bodies through abstract control. Where the eighteenth century able-bodied pauper was coerced to work through corporal punishment, the nineteenth century theory was to ensure the able-bodied worked by structuring their options. The pauper was acknowledged to be a choosing being, and institutions were structured such that the pauper would choose a life of wage labour rather than a life on relief.⁵¹ Other of these discourses involve more the theory of the structure of the English state, or the disputes about ethical or effective government, and as such have more to do with relations between administrators than techniques of power over the poor.

Foucault's theory provides an interesting response to the criticism of Thompson⁵² and others that social control theory does not allow any clear answer as to who is doing the control, and who is being controlled. Foucault's combination of discourse theory and social control solves this problem of agency by positing control everywhere and nowhere. Ignatieff comments:

In place of these accounts [Marxist, functionalist], he [Foucault] argues that punitive power is dispersed

⁵¹For a longer, and largely persuasive analysis of the new poor law from a Foucauldian perspective, v. Mitchell Dean, The Constitution of Poverty, supra.

⁵²"Social Control in Victorian Britain", supra.

throughout the social system: it is literally everywhere, in the sense that the disciplinary ideology, the savoir which directs and legitimizes power, permeates all social groups (with the exception of the marginal and deviant), ordering the self-repression of the repressors themselves. ... Given that all social relations were inscribed within relations of domination and subordination, ordered, so Foucault says, by a continuous disciplinary discourse, it is impossible to identify the privileged sites or actors that controlled all the others. The disciplinary ideology of modern society can be identified as the work of specified social actors, but once such an ideology was institutionalized, once its rationality came to be taken for granted, a fully exterior challenge to its logic became impossible.⁵³

The focus in this dissertation upon socially situated texts re-introduces this problem of agency. When discourse is no longer considered a universal knowledge, it becomes relevant to inquire into who is constructing the knowledge, why, and, as a result, who is exercising what sorts of power over whom. The problem of agency is here addressed in simplistic terms: administrative structures established by statute and practice defined who made decisions about whom. It is these decision-makers who are considered to be the primary agents in the discussion which follows. This is largely an imposed choice. It would be naive and patronizing to pretend that the poor themselves were somehow merely acted upon in this system, and some very tentative speculation will be made in the chapter four about their role and interests in the system. They left no documents, however. It is not possible to know the terms in which they framed their decisions as to whether to approach the poor law authority to invoke the system, and how to manipulate the system from inside.

That said, in considering these administrators the point is not of course to construct a retrospective morality tale. The institutions and administrators to be discussed are charged with imagery which borders on the mythic. In some quarters, the new poor law still raises the spectres of the workhouse test, *Oliver Twist*, and the

⁵³"State, Civil Society and Total Institutions", in Social Control and the State, ed. Cohen and Scull, (1983; rpt. Oxford: Blackwell, 1985) 75 at 93.

Andover Scandal, where starving workhouse inmates sucked the rotting marrow of the bones they were made to break for fertilizer. Its administrators are perceived in terms of near-unmitigated callousness and greed. The nineteenth century alienist similarly has provoked a number of images including the compassionate humanitarian, the social climber, the gaoler, and the dangerous quack. Insofar as these images were current in the nineteenth century and affected the conduct of administration, they are relevant; but beyond that, the aim is to understand the workings and development of the system, not to make moral judgments good or bad about historical figures.

As noted above, Foucault's work is relevant to this thesis not merely for the methodological approach he adopts, but also for their subject matter. His works on madness and incarceration specifically are not merely relevant in themselves, but have been extraordinarily influential in the academic debate surrounding institutionalization in general, and of the mad in particular. The very scope and diversity of Foucault's work makes it difficult to apply in a straightforward manner here. Numerous of his works are arguably relevant to the topic at hand, but none are precisely on point: his nineteenth century work does not centre on madness, and his most significant work on madness focuses on the eighteenth century. Application of his work is not assisted by the fact that Foucault himself did not remain consistent throughout his career, a fact he himself acknowledged.⁵⁴ Notwithstanding these difficulties, some more specific remarks are called for.

Madness and Civilization,⁵⁵ is essentially a work on the conceptualization of madness in the classical period, but it contains a chapter on the nineteenth century as well. The chapter was radical to the point of iconoclasm when it was first published in 1961, for in it Foucault took the image of Pinel striking the chains from the mad at the Bîcetre, not as a symbol of freeing the mad, but merely of a change in their restraint. Tradition had held the York Retreat to introduce a humanitarian revolution;

⁵⁴"The Minimalist Self", 1983, rpt. Politics, Philosophy, Culture: Interviews and other Writings, 1977-1984. Ed. Lawrence Kritzman. (New York: Routledge, 1988) 3 at 14.

⁵⁵Trans. Richard Howard, (New York: Random House, 1965).

not so Foucault:

We see that at the Retreat the partial suppression of physical constraint was part of a system whose essential element was the constitution of a 'self-restraint' in which the patient's freedom, engaged by work and the observation of others, was ceaselessly threatened by the recognition of guilt. Instead of submitting to a simple negative operation that loosened bonds and delivered one's deepest nature from madness, it must be recognized that one was in the grip of a positive operation that confined madness in a system of rewards and punishments, and included it in the movement of moral consciousness. A passage from a world of Censure to a universe of Judgment.⁵⁶

Chains and fetters were substituted for psychological bondage, guilt and self-mastery. Foucault's insight here is the inspiration for much of the revisionist history of the asylum which sees nineteenth century moral treatment in at least an ambiguous light, and as such it has been extraordinarily influential.

There are historical difficulties in the application of Foucault's work to England. The most obvious of these involves the so-called "great confinement" of lunatics which allegedly occurred starting in late-seventeenth century France and which forms the starting point of Madness and Civilization. Whatever the case in France, there does not appear to have been a great confinement of the poor, the criminal and the lunatic in England at that time.⁵⁷ That was to wait almost two hundred years in England, to a time when different conceptions of madness were current. Such difficulties do not detract from the challenging insights of Foucault's work, but they do pose problems for its adaptation into an English context. This does not necessarily reflect on his assessment of moral treatment at the end of the eighteenth century. Roy Porter does not simply dismiss Foucault's assessment of that:

⁵⁶Madness and Civilization, *supra*, at 250.

⁵⁷Erik Midelfort, "Madness and Civilization in Early Modern Europe", in B.C. Malament (ed.), After the Reformation, (Manchester: Manchester University Press, 1980) 247 at 255 ff.; Roy Porter, Mind-Forg'd Manacles, *supra*, at 6 ff.

Foucault's judgement seems wilful, not least in view of the fact that the Retreat clearly succeeded in restoring so many of its patients to normal social life. Yet his comment rightly draws attention to one point: the Retreat's concern with self-mastery. The Retreat was opening up a new psychiatric space.⁵⁸

The underlying theme of Madness and Civilization is the conquest and subjugation of madness by reason. In pre-classical times, madness and reason had been engaged in a symbiotic relationship. In the Gothic age, madness had apocalyptic overtones. In the Renaissance, it becomes a momento mori, a parody demonic vision of human life.⁵⁹ Either way, madness had to do with bringing reason closer to truth. From the classical age, in Foucault's vision, this relationship broke down. Madness became something to be tamed, controlled, and confined. The nineteenth century innovation was the movement from chains to moral authority to produce this compliance, by creating in the asylum a world of surveillance and judgment:

The keeper intervenes, without weapons, without instruments of constraint, with observation and language only; he advances upon madness, deprived of all that could protect him or make him seem threatening, risking an immediate confrontation without recourse. In fact, though, it is not a concrete person that he confronts madness, but as a reasonable being, invested by that very fact, and before any combat takes place, with the authority that is his for not being mad. ... The absence of constraint in the nineteenth-century asylum is not unreason liberated, but madness long since mastered.⁶⁰

I offer no comment as to Foucault's vision of the classical and pre-classical periods, but the image of the nineteenth century is not without its persuasive force. As noted above, there is no suggestion of an equality of power in the nineteenth century poor law of lunacy: those confining were in a position of power over those confined. In

⁵⁸Mind-Forg'd Manacles, *supra*, at 225, endnotes omitted.

⁵⁹Madness and Civilization, *supra*, at 13 ff.

⁶⁰Madness and Civilization, *supra*, at 251 f.

exercising their power, the mad were essentially silenced: the mad were quoted in admission documents, for example, but only to prove their madness. Indeed, it is this silence, not assisted by the related silence resulting from poverty, which makes the reconstruction of how pauper lunatics related to the system so difficult.

The nineteenth century can also fairly be characterized as a time of surveillance and judgment. The facilitation of surveillance figured large in the theory of asylum architecture. Order was enforced without physical coercion. The movement to moral authority of medical superintendents is also noted by Scull for the late Georgian period:

Here was perhaps the archetypical image of late Georgian responses to the mad: the imperious keeper able to reduce the ranting and raving to docility and obedience through the moral force of his gaze.⁶¹

Mechanical restraint was virtually abolished: asylums sometimes containing over a thousand inmates would have no one in physical restraint. As Foucault points out, this did not result in any lessening of the maintenance of order in the asylum.

There are problems with Foucault's account, however, based at least in part on the period of his study. Foucault's chronology stops with the account of the York Retreat and Pinel, and thus at the beginning of the period of study in this dissertation. Institutions were small at that time, making the techniques of imposed self-judgment Foucault outlines practically possible. The creation of the insane as children and the confrontation of the mad person with their own madness pre-supposed a small asylum where care was individualized. Madness and Civilization does not address the adaptation of these techniques to the nineteenth century asylum, containing hundreds or thousands of inmates. In those institutions, the imagery was less of the confrontation of the inmate with his or her guilt, than of the asylum as a factory, with

⁶¹Most Solitary of Afflictions, *supra*, at 69.

the patients as the product.⁶² For that, different disciplinary techniques had to be developed.

That in turn suggests the relevance of Discipline and Punish, Foucault's study of the prison and his clearest exposition of nineteenth century administrative techniques. Again, direct application of the work is problematic, due in part to its focus on the correctional system. It is difficult to see parallels between Foucault's account of the logics of punishment, focusing on predictability, deterrence, and finitude of confinement,⁶³ and the logics of committal of the mad, based on cure and protection of the insane person and the public.

Foucault's comments about disciplinary institutions are closer to on point. Docile bodies manipulated to resemble parts of a colossal machine, hierarchical control, and normalizing judgment, all hallmarks of the new disciplinary structures,⁶⁴ can be seen in some of the theoretical discourse surrounding the asylum. Even here, there are difficulties in applying the model directly. First, is the problem of relating theory to practical situations. Foucault is tracing the creation of knowledge. Practical problems of implementation are not of concern. This is not the case in this dissertation, which focuses on the implementation of a specific system in a specific political context. Thus while county asylums may have attempted to match this disciplinary model, they encountered difficulties. For example, while they may have favoured employment of the inmates, organized by timetable in good disciplinary fashion,⁶⁵ a maximum of about half of the inmates at the Leicestershire Asylum were actually employed at a given time. This may well be because of physical and health limitations of the remainder. The number employed reduced markedly in winter, when farm work was unavailable. So notwithstanding what may have been a

⁶²v., for example, W.H. Sankey, "Do the Public Asylums of England ..." 2 Journal of Mental Science (1856) 466 at 472.

⁶³Discipline and Punish, *supra*, at 104 ff.

⁶⁴v. Discipline and Punish, *supra*, at 135 ff.

⁶⁵v. Discipline and Punish, *supra*, at 149 ff.

disciplinary intent, many of those in the asylum appear to have been largely idle for much of the time.

Secondly, there is the question of conflicting disciplinary ideologies. Chapter five below will discuss the form of case books, a form prescribed by the Lunacy Commissioners, reminiscent of the process Foucault describes of turning the inmate into a "case". Among other things, the process of the inmate in the asylum was to be recorded. Certainly at Leicestershire, it was not. It will be argued that this was consistent with the local concerns regarding the lunatics, less that they be cured or treated as individual cases, and more the assurance that they were properly committed. The examination which in Foucault's work united the techniques of hierarchical observation and normalizing judgment,⁶⁶ appears to have been essentially absent. This does not necessarily mean that the asylum was not in some sense a disciplinary institution. Workhouses kept few records and had nothing comparable to an examination either, but as will be discussed below, this was as a result of a different disciplinary ideology: the organization of the system was to ensure the appropriate correction of paupers, without the need for written records or evaluative practices. It does mean that Foucault's model cannot simply be transferred to this study.

As discussed above, this thesis starts from the proposition that lunacy law is a branch of poor law in the nineteenth century. Predictably, the first chapter here is a defense of that basic point. It relies primarily on quantitative evidence of who was confined and where, the administrative networks of who was running the system, and the terms and legislative history of the county asylum legislation.

Chapters two and three examine the development and implementation of the relevant legislation during the nineteenth century. Chapter two provides a contextual framework. It examines the coming of the new poor law, and the influences of utilitarianism, evangelicalism, and nineteenth century paternalism both on the Royal Commission Report which lead to the 1834 act, and the passage and implementation

⁶⁶Discipline and Punish, *supra*, at 184 ff.

of the act. Chapter three looks at the development of lunacy legislation. The mid-century legislation development began in 1845, more than a decade after the introduction of the new poor law, and after a reversion to a Tory administration. While this legislation and that enacted by the succeeding Whig administrations increasingly provided an administrative role for poor law staff, it was also enacted at a time when the hard edges of the new poor law were politically on the defensive. Where the 1834 act had been the result of economic theory and moral judgment, the poor law of lunacy reflected concerns about the "condition of England". As such, it will be argued that the poor law of lunacy both grew out of and presupposed the arrangements of the new poor law, while challenging it by perpetuating old poor law structures and values as well.

The focus of this dissertation on the administration of the poor law of lunacy has necessitated a local study. Leicestershire and Rutland has been selected, and the results are discussed primarily in chapters four and five. Chapter four examines the relative roles of the Justices of the Peace, the boards of guardians, the poor law medical officers, and the asylum superintendents, emphasizing their distinct and divergent interests in the administration of the asylum acts. Chapter five considers the decisions of these officials, through an examination of the case books and admission documents to the county asylum, and such relevant documents as remain for the workhouses. Of particular concern will be how these documents created an understanding of who was a proper person to be confined, and what the relative roles of the asylum and workhouse were. All remaining case books and admission documents to the county asylum have been examined up to 1870, and particular focus has been placed on those between 1861 and 1865, when a complete set of each survives.⁶⁷

Chapter six examines the Commissioners in Lunacy, and in particular, the ways in which they attempted to influence the course of affairs both at the level of central policy, and through local inspections in Leicestershire and Rutland. It will be argued

⁶⁷Statistical summaries and general information regarding these documents is contained as appendix 2, below. See also chapter five, where they are discussed in depth.

that unlike the Poor Law Commissioners in the 1834 report, they did not establish a firm orthodoxy of how the system was to work. They worked primarily through the building of alliances with local authorities, not through legal fiat. While this may have increased the standard of facilities through a process of incrementalism, it did not result in a great influence on reform.

Chapter 1: Poor Law and Asylum Law as a Single Strand

This chapter is about context. Previous historical studies of nineteenth century asylums have considered them in a package with private madhouses, in the context of the history of medicine. This thesis instead takes as a starting point that the nineteenth century asylum is to be understood in the context of the nineteenth century poor law. Others have referred to the poor law as part of the general intellectual background of the asylum movement, marking the social ideas and attitudinal tide which made the rise of large-scale confinement in the asylum attractive to the nineteenth century.¹ The nineteenth century is perceived in such studies as a period where social problems were seen in abstract and theoretical terms, and where broad administrative solutions to these problems were developed. Thus in these studies poverty (and also criminality, although this is less directly relevant here) is perceived as a parallel to lunacy: they were social problems to be solved. These studies do not attempt to extend the relationship beyond this point.

The relationship between administration of lunacy and poor law was much closer than these studies suggest. The asylum's legislative roots were in the old (i.e, pre-1834) poor law, and throughout the nineteenth century, it remained an institution directed towards the poor. Far from being administratively separate from the nineteenth century poor law, both shared an administration at the local level. And far from the nineteenth century asylum ousting poor law jurisdiction in insanity, large numbers of the insane remained on other forms of poor relief, usually residing in the workhouse or living on outdoor relief. The picture which emerges is of various

¹See, e.g., Andrew Scull, Museums of Madness, (1979; rpt Harmondsworth: Penguin, 1982) chapter 1, and Joan Busfield, Managing Madness, (London: Hutchinson, 1986) chapter 7; Berrios and Freeman, "Introduction" to 150 Years of British Psychiatry, (London: Gaskell, 1991) at x.

organs of the poor law, including the asylum, acting in tandem.

This closer relationship is taken as the starting point for the argument herein; but as it is a new departure, it warrants further discussion and justification.

The Legislation of Lunacy and Poverty

The first statute allowing county asylums to be built on the rates was passed in 1808.² The birth of the county asylum system can reasonably be said to have occurred at that time, thus well before the enactment of the new poor law in 1834. To understand the legislative roots of the asylum, it is therefore necessary to make a few remarks about the old poor law.

The legislative foundation of the old poor law had been laid originally by a 1601 statute,³ extensively modified by the end of the eighteenth century. The original policy had been three-fold: those who would work, but could not get work, were to be provided with work; those who could not work, were to be offered charity; and tramps, vagrants, and those who refused to work, were to be punished. Administration was through the more than 15,000 parishes of England and Wales. Unpaid parish overseers were directly responsible for the administration of relief, under the supervision of local Justices of the Peace.

The thrust of the policy was to keep the poor in their own communities. Relief could only be given in the parish where the pauper was "settled", and parishes were authorized to remove paupers to their parish of settlement for relief.⁴ By the eighteenth century, settlement was attained in various ways. Legitimate children received the settlement of their father; illegitimate children received the settlement of

²48 George III, c. 96, s. 19.

³43 Eliz. I, c. 2.

⁴The eighteenth century law of settlement was based in a 1662 statute, 13/14 Car. II c. 12.

their place of birth. Women became settled in their husband's parish upon marriage, and men became settled in the parish either where they were apprenticed, or where they paid an annual rent of more than ten pounds per year. Such a tenancy was well beyond the means of the common labouring man, who thus retained for life the settlement of his father.

The 230 years following the enactment of the Elizabethan act were full of legislative innovation. Amendments to the law of settlement were one such set of innovations. Local exemptions and requirements were another, and by the beginning of the nineteenth century, there were hundreds of these local acts. Administration, originally local, had become more centralized in the period before the Commonwealth, and more localized again afterwards. Perhaps more important for present purposes, changes in legislation and practice lead to a diversification of relief. Almshouses for the aged and disabled poor had been part of the original Elizabethan poor law.⁵ A 1722 statute allowed parishes to construct a workhouse to provide work for their able-bodied paupers,⁶ and almost 2,000 such houses had been constructed by 1776.⁷ These were small institutions, usually containing between twenty and fifty persons, and unlike their nineteenth century namesakes, not normally designed to be punitive. Each county was required to build a house of correction in 1744, for the correction of various sorts of ruffians, beggars and vagabonds, including those who "refuse to work for the usual and common Wages given to other Labourers in the like Work, in the Parishes or Places where they then are".⁸

Gilbert's Act of 1782⁹ allowed parishes to unite for purposes of poor relief,

⁵Their legislative authorization was 39 Eliz. I, c. 5, thus pre-dating the 1601 act by four years.

⁶Knatchbull's Act, 9 Geo. I, c. 7.

⁷Anne Digby, The Poor Law in Nineteenth-Century England and Wales (London: Historical Association, 1982) at 6.

⁸17 George II, c. 5, s. 1.

⁹22 Geo. III, c. 83.

and roughly 1,000 parishes united in this way. The intention of the legislation was for workhouses to be constructed in these unions for the relief of the aged and infirm. The able-bodied were to be relieved outside the workhouse, where employment was to be provided, and wages supplemented from the poor rates if necessary. Such relief in aid of wages had become common practice in some parishes prior to this time, but this was its first legislative authorization. It was not until 1796¹⁰ that such a practice received general legislative sanction; by 1832, ten per cent of the population was in receipt of such benefits.

Poor relief prior to 1834 was thus a patchwork of local solutions, administered by local justices and parish officers, under a jumbled accumulation of special and general statutes.

The 1808 statute was not the first English legislation to deal with lunatics. The power of the king as parens patriae to control and protect the persons and property of lunatics and idiots was so enshrined as far back as the fourteenth century.¹¹ This was appealed to only where significant property was at stake, however, and it was not until the beginning of the eighteenth century that statutes began to address the insane more generally.

A 1714 act¹² was apparently the first instance in which committal of lunatics was mentioned specifically in a modern English statute. Its title makes clear its poor law character:

An Act for Reducing the Laws relating to Rogues,
Vagabonds, Sturdy Beggars, and Vagrants, into one Act

¹⁰36 Geo. III, c. 23.

¹¹De Prerogativa Regis, 17 Edw.II, stat. I, cap. ix (1324). It would appear that even this was merely codifying existing legal doctrine: v. Ontario, Final Report of the Enquiry on Mental Competency (D. Weisstub, chair) (Toronto: Queen's Printer, 1990), appendix III at note 551.

¹²12 Anne c. 23 (1714).

of Parliament; and for the more effectual Punishing such Rogues, Vagabonds, Sturdy Beggars, and Vagrants, and sending them whither they ought to be sent.

This reflects the old poor law policy of punishment of those who could work but refused to do so, the undeserving poor.

The act dealt with the insane only tangentially. It allowed commitment of persons "of little or no Estates, who, by Lunacy, or otherwise, are furiously Mad, and dangerous to be permitted to go Abroad" by two justices, for such time as the madness continued. The reference here was explicitly to the poor. Hunter and Macalpine argue that the effect of the act was to treat the mad differently from other categories of sturdy beggar: the mad would no longer be liable to be whipped as a punishment for their vagrancy.¹³ A relatively high standard of lunacy was required by the statute. This can be seen as an extension of the common law standard. There had long been a common law defence to an action for trespass against people committing or restraining mad people, but the defence applied only when the lunatic was detained "in his fury".¹⁴ The statute can thus be seen as carrying the common law standard over into the statutory realm. This standard also reflects the bestial imagery associated with the mad in the eighteenth century, imagery Anne Digby characterizes as follows:

In an age of reason the forces of irrationality -- represented by the mad -- needed to be excluded. Their conditions while confined were to be appropriate to their ambiguous state. Having lost their reason, which constituted their badge of humanity, the mad were seen

¹³Richard Hunter and Ida MacAlpine, Three Hundred Years of Psychiatry, 1535-1860, (1963; rpt. Hartsdale, N.Y.: Carlisle Publishing, 1982) at 299.

¹⁴v. Sir John Comyn, Digest of the Laws of England, 5th ed., 8 vols., ed. Anthony Hammond, (London: Strahan, 1822) at vol. 6, p. 544, pl. 3.M.22; Sir Matthew Brook, A New Abridgement of the Law, 7th ed., 8 vols., ed. H. Gwillim (vols. 2-4) and C. Dodd (vols. 1, 5-8), (London: Strachan, 1828) at vol. 7, p. 664; Robert Brook, La Grande Abridgement, 2 vols. (n.p., 1573), "Faux Imprisonment", pl. 28, vol 1, p. 330; Brookshaw v. Hopkins (1773), Lofft. 240 at 243 (K.B.).

as animals.¹⁵

The legislative reference to madness defined by fury, was consistent with this bestial, anti-reason approach.

The 1714 provisions regarding the confinement of the mad were re-enacted in 1744.¹⁶ This latter act was also clearly a poor law statute. Its most important clause required the construction of houses of correction in all counties. Its focus was once again on controlling the unruly poor, creating offences for sheltering vagabonds and defining the powers of Justices of the Peace to deal with "incurable Rogues".

Thus the first statutes authorizing committals of the insane by the state were contained within the poor law. This eighteenth century legislation had not indicated where the lunatics were to be confined, but the poor law seems to have been heavily involved. Some workhouses constructed under the old poor law had accommodation designed for lunatics.¹⁷ The returns to the Select Committee on the State of Criminal and Pauper Lunatics in 1807 indicated that of the 2,398 pauper lunatics reported, 1,765 were in workhouses, and a further 113 in houses of correction.¹⁸

¹⁵Anne Digby, Madness, Morality and Medicine: A History of the York Retreat, 1796 - 1914 (Cambridge: Cambridge University Press, 1985) at 3.

¹⁶17 Geo. II, c. 5, s 20.

¹⁷See, for example, the House of Industry of the Flegg incorporation in Norfolk, constructed between 1775 and 1777, which had separate accommodation for lunatics: v. Anne Digby, Pauper Palaces, (London: Routledge, 1978) at 37. St. Peter's Workhouse in Bristol also housed lunatics, and went so far as to provide for their weekly visitation by a medical practitioner: v. Roy Porter, Mind-Forg'd Manacles, (London: Athlone, 1987) at 118.

¹⁸Report of the Select Committee on the State of Criminal and Pauper Lunatics and the Laws Relating thereto, 1807. PP 1807 (39) ii 69, at 12. These figures do not include criminal lunatics, who were committed under 39/40 George III (1800), c. 94. The figures are not clear as to how many of the individuals shown as lunatics were detained pursuant to the 1744 legislation, and how many were merely housed in the establishments without formal legal authority. The overwhelming presence of lunatics in the poor law facilities, compared with thirty-seven people in gaols, 115 people in madhouses, twenty-three in hospitals or asylums, 108 privately lodged, and seventh-

This is broadly consistent with studies of the care of the insane under the old poor law. Unless the individual were dangerous, they would be kept with their families.¹⁹ Outdoor relief might be provided either to assist in purchasing of necessities for the insane person, or sometimes to hire a nurse to provide supervision to allow the breadwinner(s) to continue work.²⁰ These cases appear to have been dealt with primarily at the parish level. The dangerously insane poor in the seventeenth and eighteenth centuries on the other hand would generally be sent by Quarter Sessions to some sort of secure place. Sometimes, this would be a private madhouse, or Bethlem, which was until the mid-eighteenth century the only charitable facility in England for the care of the insane. Bethlem catered primarily to the metropolis. The dangerously insane poor in the provinces would more likely end up in a house of correction, workhouse or occasionally, the local gaol.²¹ Interestingly, Suzuki notes no change in practice with the introduction of the Vagrants Act in 1714.²² Instead, he shows a practice of confining the dangerously insane poor by

eight on out relief suggest that the workhouse had established itself as the pre-eminent place for the state to house mad people at this time. The Committee believed that the numbers reported were far below the actual numbers of pauper lunatics in the country. They did not explicitly challenge the distribution of those lunatics, however, between the various methods of care.

¹⁹v. Akihito Suzuki, "Lunacy in seventeenth- and eighteenth-century England: analysis of Quarter Sessions records Part I", 2 History of Psychiatry (1991) 437; Peter Rushton, "Lunatics and idiots: mental disability, the community and the Poor Law in north-east England 1600-1800", 32 Medical History (1988) 34; A. Fessler, "The Management of lunacy in seventeenth century England: an investigation of Quarter-Sessions records", 49 Proceedings of the Royal Society of Medicine (1956), 901. Rushton associates the dangerous-not dangerous distinction with the lines between idiocy and lunacy. Whatever the merits of that association for the seventeenth and eighteenth centuries, it will be argued below that it is generally unhelpful in a nineteenth century context.

²⁰Suzuki, "Lunacy in seventeenth- and eighteenth-century England ... Part I", supra, at 453 ff. This practice of providing nursing care through outdoor relief structures continued in Leicestershire at least into the mid-nineteenth century: v. chapter four, below.

²¹Akihito Suzuki, "Lunacy in seventeenth- and eighteenth-century England ... Part II", 3 History of Psychiatry (1992) 29.

²²"Lunacy in seventeenth- and eighteenth-century England ... Part II", supra, at 35.

Quarter Sessions throughout the seventeenth and eighteenth centuries, suggesting that at least in his local study of Middlesex, the 1714 act was merely codifying a pre-existing practice.

The result of the 1807 Select Committee was enabling legislation, allowing counties to construct lunatic asylums, for their pauper lunatics.²³ Prior to this legislation, asylums had been built by private subscription and were few in number. Under the 1808 legislation, they could be built on the rates. In the history of the asylum movement, this was a significant development. Some of the arguments used by the Select Committee are reminiscent of arguments later to be employed for the removal of the insane from workhouses to asylums: conditions in the workhouses were said to be "revolting to humanity"; lunatics needed an environment conducive to cure; asylums could cure, with the York Asylum boasting a fifty per cent cure rate; and the inmates of the workhouse were without the legal safeguards afforded to lunatics in private madhouses.²⁴

The act was also a natural development in the poor law. By its terms, it was directed to the confinement of paupers. It made no provision at all for the admission of privately paying patients to the facilities. Statutory provision for the admission of such patients was made in 1815,²⁵ but this clause applied only if there were excess capacity in the asylum. The 1808 act did not repeal the 1744 act, but specifically incorporated it: persons detained under the 1744 legislation were to be kept in the county asylum, if one were constructed, otherwise in a licensed madhouse.²⁶ The funding and administrative mechanisms, by which Justices of the Peace superintended the asylum, were essentially the same as those used for the construction of the poor

²³An Act for the Better Care and Maintenance of Lunatics being Paupers or Criminals in England, 48 George III (1808) c. 96.

²⁴Report of the Select Committee on the State of Criminal and Pauper Lunatics and the Laws Relating thereto, 1807. PP 1807 (39) ii 69.

²⁵55 George III (1815), c. 46, s. 12.

²⁶48 George III (1808), c. 96, s. 19.



law houses of correction, required by the 1744 act.²⁷ The old poor law had established a number of institutional foci for relief, including houses of correction, workhouses, and almshouses. To the observer in the early nineteenth century, the county asylum must have been perceived as just another in this series.

In 1774, a second stream of statutes was commenced, designed to regulate private madhouses.²⁸ The original act set the tone for those which followed: all persons boarding at least two lunatics had to get a licence; houses were to be inspected, initially by representatives of the College of Physicians in London, or local Justices accompanied by a physician or surgeon in the provinces; all persons detained in such houses had to be certified by a physician, apothecary or surgeon; and the names of persons confined were to be forwarded to the College of Physicians to be included on a register. This line of statutes, like the asylum acts, was much developed over the course of the nineteenth century. In 1828, the Metropolitan Commissioners in Lunacy were established. The commissioners took over the inspection and licensing functions from the College of Physicians; outside London, these functions remained under the control of local Justices of the Peace.²⁹ Following a national inspection of facilities for the insane by the Metropolitan Commissioners in 1842-4, the jurisdiction of the Lunacy Commissioners was extended in 1845 to include inspection of all private madhouses in England and Wales.³⁰

Private madhouses were permitted to admit pauper patients, paid for by poor law authorities, and prior to the explosion in asylum building after the 1845 Asylum

²⁷17 George II (1744) c. 5, ss. 30, 33.

²⁸The first statute in the series is 14 George III (1774), c. 49.

²⁹v. 9 G. II c. 41.

³⁰v. 8 & 9 Vict. c. 100. Their licensing powers remained restricted to the metropolitan madhouses. The Lunacy Commissioners also received authority to inspect, but not license or approve, workhouses and county asylums at this time as well: 8 & 9 Vict. c. 101.

Act, madhouses actually contained more pauper than paying patients.³¹ The actual numbers were small: in 1844, for example, roughly eighteen per cent of the pauper insane were in madhouses, and by 1890, this proportion had decreased to two per cent. This reflects the statutory priorities: paupers could be admitted to private madhouses only when no space was available in the county asylum.³² The removal of the poor from private asylums and the separation of paupers from other classes of insane was reflected in the objectives of the Lunacy Commission.

The two streams of acts were not consolidated into one statute until the 1889/1890 legislative revisions, and even then the statute treated paupers and private patients quite differently.³³ The continuation of the two legislative streams reinforces the sense of the asylums as juxtaposed to the private madhouses. There was not one lunacy law system, but two.³⁴ The county asylum acts referred specifically

³¹In the late 1840's, paupers represented up to sixty per cent of those in private madhouses. By 1860, this proportion had decreased to thirty-one per cent, following the explosion in asylum growth of the 1850's. It varied between a quarter and roughly a third of those in private madhouses until the end of the century. Note, however, the declining significance of this form of care: numbers in madhouses were 6931 (4178 paupers) in 1849; by 1890, these numbers had fallen to 4547 (1509 paupers). For all these statistics, v. William Parry-Jones, The Trade in Lunacy, (London: Routledge and Toronto: University of Toronto Press, 1972) at 55.

³²Indeed, according to an 1844 Queen's Bench decision, Justices had no jurisdiction to send insane persons to private madhouses at all if a county asylum had been constructed, even if the asylum was full: R. v. Ellis (1844), 14 L.J. (N.S.) M.C. 1. This jurisdiction was provided explicitly in 1845: v. 8 & 9 Vict. c. 126, s. 48.

³³52 & 53 Vict. c. 41 and 53 Vict. c. 5. The latter statute was a consolidation, not merely of the county asylum and madhouse acts, but also of the provisions relating to the care of lunatics in workhouses and on outdoor relief, and the procedures for determination of lunacy in the Chancery Court.

³⁴Or actually four, since an administrative and legislative structure directed towards criminal lunatics developed contemporaneously with the county asylum and madhouse systems, and the Chancery jurisdiction continued, increasingly subject to legislation, throughout this period. these four streams were consolidated in 1890 by 53 Vict. c. 5. Although combined into the same statute at that time, much of the distinctness of the four strands remained. This were separate and distinct from litigation relating to testamentary capacity and contractual competence. This litigation was also active in the nineteenth century, but not subject to statutory regulation.

to pauper lunatics throughout the century. The vestiges of the poor law roots of the asylum system can thus be seen as remaining in the character of the legislative framework.

The New Poor Law, The Asylum, and the Continuation of Workhouse Care

By the first third of the nineteenth century, the poor law had reached a point of political crisis. Costs were soaring: poor rates increased an average of sixty-two percent between 1802-3 and 1832-3.³⁵ At the same time, there was civil unrest among the poor. This reached a political crisis point with the Swing Riots in the south of England in the early 1830s. The poor law was a target of this unrest: thirteen workhouses were attacked, and two destroyed.³⁶ There were calls in Parliament for the complete abolition of the poor law, as an interference in the labour market and as instilling moral vice in the poor. The Whig government appointed a Royal Commission in 1832 to investigate the operation of the poor laws, and to recommend reform. The commission reported in 1834, and the resulting legislation was enacted that same year.

This is not the place to examine the advent and implementation of the new poor law in detail, although some of the relevant issues will be discussed in subsequent chapters. Some basic information and argument here is however necessary to understand the continuing close relationship between lunacy and the poor law in the remainder of the century.

The new scheme involved the formation of the 15,000 parishes into roughly 600 unions. The focus of reform was the relief to be given to the able-bodied pauper, and the basis of the new structure was the so-called "principle of less eligibility", stated by the commissioners in the following terms:

³⁵Anne Digby, The Poor Law in Nineteenth-Century England and Wales, *supra*, at 6.

³⁶v. M.A. Crowther, The Workhouse System 1834-1929, (London: Methuen, 1981) at 21.

The first and most essential of all conditions, a principle which we find universally admitted, even by those whose practice is at variance with it, is, that his [i.e., the able-bodied pauper] situation on the whole shall not be made really or apparently so eligible as the situation of the independent labourer of the lowest class.³⁷

Poor law was to relieve indigence, not mere poverty. To attain this end, out-door relief to the able-bodied was to be abolished. The wage supplements of out-relief had acted as a subsidy to employers, and thus undercut the labour market, leading to depressed wages and the need for further supplementation of wages by the poor law. Such supplements were also thought to be open to abuse by dishonest poor, who might through fraud receive relief in more than one parish. Outdoor relief to the able-bodied was thus to be prohibited. Relief to the able-bodied was to be afforded only in a well-regulated union workhouse.

Notwithstanding the similar nomenclature, the workhouse of the new poor law was intended to bear little resemblance to its old poor law predecessor. The commissioners trod a very fine line in the explanation of what a workhouse was to be. On the one hand, life in the workhouse had to be "less eligible" than the situation of the independent labourer. On the other hand, starvation could not be countenanced, and the so-called "independent labourers" were already living close to starvation. The result as the system developed in the early years was an attempt to make the workhouse unappealing through the use of discipline. Workhouse uniforms were required to be worn, making the inmates readily identifiable by the public and removing individuality. Husbands and wives were housed separately from their families and from each other, and could communicate only with permission of the master. Food was adequate, but plain and lacking variety. Work was tedious, for example stone-braking for the men, laundry work and mending for the women, and the treadmill and picking oakum³⁸ for both. Nonetheless, notwithstanding Oliver

³⁷Report from His Majesty's Commissioners for Inquiring into the Administration and Practical Consequences of the Poor Laws. PP 1834 (44) xxvii 1 at 127.

³⁸i.e., picking apart old rope, so the hemp could be re-used as caulking for ships.

Twist and aberrations such as the Andover scandal of 1845, a case where inmates were in fact kept close to starvation, it would appear that few people starved in the workhouses.

A two-pronged attack was thus put in place. The individual pauper would be discouraged from applying for relief by the principle of less eligibility and, at the same time, the termination of outdoor relief in aid of wages would cause wages to float back up to their pre-intervention levels. This combination involved an aim more ambitious than mere relief: the aim was to terminate pauperism, at least for those morally responsible enough to live within their means. For those lacking such moral fibre, the system would at least confront them and hold them accountable for their indiscretions.

The new system was an administrative departure from the old. The new unions were to be administered by boards of guardians, mainly elected by local ratepayers, but with the local Justices of the Peace serving ex officio in rural areas. Where the old poor law had been administered by local volunteer parish officials, the new required each union to hire relieving officers. Some workhouse staff were also hired full-time. Originally, these included a master and a matron, but as the century progressed, they grew to include nurses, schoolteachers, and medical staff. Medical assistance, both inside and outside the workhouse, might be provided on a fee for service basis, or by salary, usually with the expectation that the physician or surgeon would carry on a private practice as well. Originally, staff costs were met entirely through the local rates, but as time passed, the central government intervened to contribute both to the salaries of schoolteachers and medical officers of workhouses. These payments were significant, as they allowed greater central control of the employment of these people.

The movement towards greater centralization was also reflected in the formation of a central board of Poor Law Commissioners who were in charge of the implementation of the new law. A group of assistant commissioners was formed to inspect implementation in local unions, and report back to this central board. Centralized audit control further ensured the compliance of local jurisdictions, and

annual reports from the Poor Law Commissioners provided a running commentary on the operation of the new law.

The 1834 report repeatedly indicated that the workhouse test was to apply only to the able-bodied poor. In fact, the commissioners went so far as to praise outdoor relief of the so-called "impotent" poor, stating that "even in places distinguished in general by the most wanton parochial profusion, the allowances to the aged and infirm are moderate."³⁹ Some of the assistant commissioners favoured a system of discretion, whereby the aged or infirm could be subject to the workhouse test in some circumstances "so as not to take away altogether the apprehension of this punishment or disgrace, such as it is, from the minds of persons who might be induced by this motive to exert themselves, so as to escape the workhouse."⁴⁰ The eventual legislation granted such discretion to the local board of guardians.

A reading of the 1834 report suggests that the workhouse was to be primarily a deterrent for the able-bodied poor, although the administrative discretion afforded to the guardians regarding the infirm complicates this image. In fact, presumably from the beginning and certainly when the first statistics are published by the Poor Law Commissioners, able-bodied adults were a minority of those in workhouses. Between 1848 and 1870, they usually represented somewhere between thirteen and seventeen per cent of workhouse inmates.⁴¹ Non-able-bodied adults, other than the insane, accounted for an additional thirty to forty per cent, and children for roughly forty per cent. The bulk of able-bodied adult paupers continued to receive outdoor

³⁹Report from His Majesty's Commissioners for Inquiring into the Administration and Practical Consequences of the Poor Laws, PP 1834 (44) xxvii 1 at 24.

⁴⁰Report of Alfred Powers, contained in Appendix I to the Report from His Majesty's Commissioners for Inquiring into the Administration and Practical Consequences of the Poor Laws, PP 1834 (44) xxvii 1 at 258.

⁴¹For the proportions of able-bodied compared to non-able-bodied adults in the workhouse, v. appendix 1. Note that the figures contained therein refer to adults only, and roughly forty per cent of workhouse inmates were children.

relief throughout this period.⁴²

The county asylums were not directly referred to in the 1834 legislation.⁴³ Nonetheless, the poor law connotations did not disappear. Pauper lunacy had been within the scope of the 1832 Royal Commission's examinations of the workings of the old poor law. While the focus of the eventual report was the able-bodied poor, various assistant commissioners also discussed peripherally the care of the mad and the desirability of county asylums.⁴⁴ In 1838 it was apparently the official position of the Poor Law Commissioners that asylums for pauper lunatics would most appropriately be combined with large workhouses, and a clause to bring asylums under the jurisdiction of the Poor Law Commission and to allow for the combination of unions for asylum construction was introduced into a poor law amendment act in 1839, but later dropped.⁴⁵ Somewhat sporadically at first, the annual reports of the Poor Law Commissioners contained statistics relating to pauper lunacy, and from 1860, the percentage of pauperism ascribable to lunacy was calculated. In the accounts appended to these reports, asylum expenditures were categorized as "Expenditures for Relief to the Poor, and Purposes connected therewith", and not, for example, as related to the public health functions of the Poor Law Commission.

The statistics regarding those who were confined in asylums bears out this poor law connection. County asylums became mandatory in 1845, and the number of

⁴²See Appendix I. In January 1849 for example, 28,058 adults classed as able-bodied were in the workhouse; 171,472 were relieved outside the workhouse: Eleventh Annual Report of the Poor Law Board, PP 1859 1st sess. ix 741 at app. 33. In January 1870, the numbers were respectively 30,389 and 163,700, and in January 1900, 25,917 and 71,828: Ninth Annual Report of Local Government Board, PP 1880 xxvi 1 at app. D(71) and Twentieth Annual Report of Local Government Board, PP 1890-1 xxxiii 1.

⁴³The reasons for their exclusion will be discussed in chapter 3, below.

⁴⁴Assistant Commissioners' Reports, in Report from His Majesty's Commissioners for Inquiring into the Administration and Practical Consequences of the Poor Laws, PP 1834 (44) xxvii 1 at 429 f. The assistant commissioners' reports are not contained in the Checkland edition of the 1834 report.

⁴⁵v. Ruth Hodgkinson, The Origins of the National Health Service, (London: Wellcome, 1967) at 179 f.

paupers confined therein rose from 4224 in 1844 to 9966 in 1852. The number of paupers then increased more than five-fold between 1852 and 1890, that is, to 51,910. The proportion of private patients in county asylums fell from about 3.6 per cent in 1849, to less than two per cent by 1855, and remained under two per cent until at least 1890.⁴⁶

This raises the question of what a pauper was. Technically, a "pauper" was a person whose maintenance was paid for by their local parish or union. It was alleged that for many of the people in asylums, this was a misleading designation, as the families of the inmates reimbursed the poor law authorities for the costs of their care. The Lunacy Commissioners in 1855 claimed that "not infrequently tradesmen, or thriving artisans" had relatives admitted to the asylum on this basis.⁴⁷ This has led to some discussion as to whether "paupers" in asylums can rightly be considered comparable to other paupers under the poor law.⁴⁸

⁴⁶Statistics are drawn from the annual reports of the Commissioners in Lunacy for the relevant years. Regarding total institutionalization of private and pauper insane persons, see appendix 1.

⁴⁷Ninth Annual Report of the Lunacy Commissioners, PP 1854-5 (240) xvii 533 at 34.

⁴⁸Hodgkinson, for example, argues that outside the class of able-bodied, the new poor law increasingly relieved a broader segment of the poor over the course of the mid-century: Origins of the National Health Service, *supra*, especially at chapter 10. There is first a factual query about this. Certainly in Leicestershire and Rutland, the application of the provisions of the lunacy legislation requiring visitation of insane paupers by poor law medical staff was restricted to those actually on outdoor relief. It will be acknowledged in chapter five that some non-paupers were admitted to the asylum under a provision allowing the confinement of those "not under proper care and control" or as "cruelly treated", but the numbers of these were relatively small.

Technically, to be a pauper meant to be in receipt of relief, as the poor who received medical relief were. That therefore cannot be the meaning of 'pauper' which Hodgkinson adopts. It is not clear what other definition she uses, however. Does she mean "respectable", not part of the "residuum" of the poor, and thus not appropriately characterized by the moralizing language of pauperism adopted by the new poor law? If so, she may well be correct, but it is then an open question whether she has distinguished the poor receiving medical or asylum relief from the bulk of paupers, or instead shown the gap between the new poor law mythology and actual paupers relieved. Thus numbers of able-bodied people on relief were significantly greater in

In poor law jargon, the individual had to be "chargeable" to the parish or union. In 1875 an opinion of the Law Officers of the Crown stated that persons were "chargeable" in this context meant unable to provide themselves with the treatment necessary for their position, provided that no persons legally compellable to support them was competent to provide such treatment.⁴⁹ This provided some support for the legality of the reimbursement, so long as the family was unable to afford the costs of care of a private patient. The opinion also made it clear that the issue was eligibility for relief; individuals did not actually have to have been on the poor law rolls prior to the admission to the asylum, although they were afterwards.

The consideration of the Leicestershire and Rutland documents below will show that some patients were admitted on this basis, although it is open to question how significant the numbers of people so admitted were. It should not be taken as displacing the image of the asylum as a place for the poor, however. There was correspondence on the issue in 1863, when at the request of the Lunacy Commission, Home Secretary Sir George Gray asked the Poor Law Board for an opinion as to "what course should be taken with reference to Lunatics being sent to the Asylum as Paupers when they are not really so."⁵⁰ This issue arose out of a concern that families of persons in the Sussex Asylum were reimbursing the poor law officials for

January, when there was no agricultural labour to be had, than in June, suggesting an inference that their relief was necessitated by a lack of work available, not a lack of will to work. Are these "real" paupers in Hodgkinson's scheme?

Where a distinction can be noted is that medical relief was provided to people who were working, without requiring admission of the family to the workhouse. This was also true of admission to an asylum, which did not result in the confinement of the remainder of the individual's family. It would thus frequently be relief where the household head remained employed, and was thus essentially relief in aid of wages. In that context, the question becomes less one of whether the individuals were "paupers", than on whether the hard lines of pauperism implied by the 1834 report and its mythology were pervasive, or whether broader views of poor relief more similar to those of the old poor law continued into mid-century.

⁴⁹Opinion of Richard Baggallay and John Holker, dated 24 July 1875, PRO MH/51/772.

⁵⁰PRO MH/51/755.

the costs of their care. The opinion of the Board did not address what constituted chargeability, and whether partial payment still left an individual chargeable, and therefore a pauper in the eyes of the statute, but it was unambiguous on the need for pauper status:

No person should be sent to an Asylum by the Justices on the application of the Relieving Officer, unless such person be a pauper Lunatic, that is, one who is chargeable on the Poor Rate. This fact should be established to the satisfaction of the Justices before they make the Order, but if a Lunatic, not chargeable to the Poor Rates, be sent to the Asylum as a pauper lunatic, it would be competent to the Visitors of the asylum to discharge such Lunatic, and such a proceeding, if threatened, or adopted, would probably prevent the recurrence of what appears to be an abuse.⁵¹

The committee of visitors of the Asylum were in entire agreement, particularly since the asylum was full at the time:

The Committee cannot imagine that the legislature when *providing an Asylum for paupers ever intended that* persons not paupers should be permitted by collusive arrangements between Unions and their friends to participate in the benefits the asylum affords whilst those for whom it was erected are excluded.⁵²

Even the Lunacy Commissioners, who supported the admission to the asylum by this system of discreet reimbursement so long as the pauper or their family could not afford the whole cost, acknowledged this argument:

This course of proceeding is stated to prevail to a considerable extent in the Asylums of Metropolitan Counties, and its effect in occupying with patients, not strictly or originally of the pauper class, the space and

⁵¹PRO MH/51/755.

⁵²PRO MH/51/755.

accommodations which were designed for others who more properly belong to it, has more than once been the subject of complaint.⁵³

The restriction to actual paupers reflects the official attitudes taken both in Leicestershire and Yorkshire. Thus both Yorkshire asylums in the 1860s included the following clause in their admission documents, in italics:

The asylum is for paupers only, and the justices are earnestly requested not to permit overseers or relieving officers to send any lunatics who are not actually chargeable as paupers.⁵⁴

To avoid this restriction, a charity was established in Leicestershire, catering to those who were poor but not actually paupers. The justification for the charity was explained as follows:

The public can scarcely be aware of the extent of the benefit to the indigent Insane this charity confers; THE LAW PROVIDES ONLY FOR ACTUAL PAUPERS: but the numerous class of the population who are poor, and many of them the poorest, whose families have struggled not to be upon the parish, would in cases of insanity be totally without assistance, if the Institution did not open its doors to afford it to them.⁵⁵

This would suggest that both by the central authorities and the local administrators, the asylum was seen as a poor law institution, with its target clientele the poor of the county.

⁵³Ninth Annual Report of the Lunacy Commissioners PP 1854-5 (240) xvii 533 at 33.

⁵⁴Copies of these admission forms are contained for persons transferred from these asylums to the Leicestershire and Rutland County Lunatic Asylum, in the collection of admission documents at LRO DE/3533.

⁵⁵Twenty-Eighth Annual Report of the United Committee of Visitors, Leicester and Rutland Lunatic Asylum, (1864), LRO DE 3533/13. Emphases in original.

The characterization of the county asylum as a poor law institution was not without its critics in the nineteenth century. John Arlidge, a physician in the charitable hospital sector, was such a critic:

If, on the contrary, our public asylums were not branded by the appellation 'Pauper;' if access to them were facilitated and the pauperizing clause repealed, many unfortunate insane of the middle class in question, would be transmitted to them for treatment; the public asylum would not be regarded with the same misgivings as an evil to be avoided, but it would progressively acquire the character of an hospital, and ought ultimately to be regarded as a place of cure, equivalent in character to a general hospital, and as entailing no disgrace or discredit on its occupant.⁵⁶

These critics do not appear to have swayed the administrative mentality, however. Thus still in 1908, the Royal Commission on the Care and Control of the Feeble-Minded dealt with county asylums in a section entitled "Poor Law Institutional Relief Outside the 'Workhouse'",⁵⁷ and both majority and minority reports of the Royal Commission on the Poor Laws and Relief of Distress in 1909 consider county asylums in the context of poor relief.⁵⁸ The poor law character of the asylum remained firm throughout the nineteenth century.

⁵⁶On the State of Lunacy and the Legal Provision for the Insane (London: John Churchill, 1859) at 35.

⁵⁷PP 1908 [4202] xxxix 159 at 16.

⁵⁸In majority report, see initial statistics at Report of the Royal Commission on the Poor Laws and Relief of Distress, (London: Queen's Printer, 1909) at 30. The majority did not discuss asylums in any detail, instead referring to the 1808 report of the Royal Commission on the Feeble-Minded. The minority report discussed lunacy in somewhat greater detail, advocating for the removal of the insane from the purview of the poor law. While it was clear that the minority report did not favour the pauperization of the insane, what it perceived as the status quo, they equally limited their criticisms of county asylums, perhaps because they favoured such specialized institutions for the care of the insane. See generally Minority Report of the Poor Law Commission, 1909, (London: National Committee to Promote the Break-Up of the Poor Law, 1909) at 296. Both these published sources are re-printings of PP 1909 [4499] xxxvii 1.

At the same time, insane paupers continued to be cared for in the workhouses of the new poor law. From 1842⁵⁹ to 1890, a steady twenty-five per cent of poor persons identified as insane were institutionalized in the workhouse, an increase from 3,829 in 1844 to 17,825 in 1890.⁶⁰ Many of these people were housed with the general workhouse population. However by mid-century, they were increasingly classified within the workhouse environment itself, and special wards were built to house them. In 1859, the Lunacy Commissioners reported that about one tenth of the workhouses in England and Wales had such wards.⁶¹ By 1865, 104 of the 688 workhouses in England and Wales had these dedicated wards.⁶²

This workhouse care was given explicit statutory recognition over the course of the century. The Poor Law Amendment Act of 1834 had prohibited the detention of dangerous lunatics in the workhouse for longer than fourteen days.⁶³ This was taken by implication as allowing the continued accommodation of non-dangerous insane persons in workhouses,⁶⁴ a reasonable interpretation given the history of workhouse accommodation of the insane. Commencing in 1862, statutory authority

⁵⁹The figures for the 1840's are not reproduced annually in the commissioners' reports, and the statistics in appendix 1 start at 1849. Such earlier figures as there are do not suggest a significantly different proportion in workhouses in the 1840's however: poor law returns showed of the 13,870 pauper lunatics identified on relief in August 1842, 3829 (twenty-eight per cent) were living in workhouses: PP 1844 (172) xl 189. For 1844, it was 4224 of 16,896 (twenty-five per cent): PP 1845 (333) xxxviii 133.

⁶⁰Source of statistic: annual reports of Poor Law Commissioners and Poor Law Board, re-printed annually in Parliamentary Papers.

⁶¹Supplement to the Twelfth Annual Report of the Commissioners in Lunacy, PP 1859 1st sess. (228) ix 1 at 9.

⁶²David Mellett, The Prerogative of Asylumdrom (New York, London: Garland, 1982) at 156.

⁶³4 & 5 Will. IV, c. 76, s. 45.

⁶⁴See, for example, the position of the Poor Law Commissioners and the opinion of the Law Officers of the Crown regarding the scope of s. 45, contained in the Eighth Annual Report of the Poor Law Commissioners, PP 1842 [359] xix 1 at 111.

was provided for the removal of chronic cases to the workhouse from the asylum.⁶⁵ In 1867, the Metropolitan Poor Act mandated the construction of large poor law facilities in London for the insane,⁶⁶ resulting shortly thereafter in accommodation in two new facilities for a total of 3,000 insane paupers.

Prior to 1867, there was no statutory power to confine the insane in workhouses. The common law had traditionally provided a defence for those confining insane persons dangerous to be at large.⁶⁷ This had theoretically been overridden by sections of the madhouse acts, although the courts could be slow to apply these sections.⁶⁸ The fourteen day proviso in the Poor Law Amendment Act presumably provided some legal authority for detention for the fourteen days. Those who were not actually dangerous were in theory free to leave the workhouse at will, like any other pauper, although according to the Lunacy Commission, local poor law authorities might discourage this. This rather awkward situation was clarified by the Poor Law Amendment Act, 1867, which provided workhouses with formal committal powers for the first time.⁶⁹

⁶⁵25 & 26 Vict., c. 111, s. 8.

⁶⁶30 Vict. c. 6.

⁶⁷v. Sir John Comyn, Digest of the Laws of England, 5th ed., 8 vols., ed. Anthony Hammond, (London: Strahan, 1822) at vol. 6, p. 544, pl. 3.M.22; Sir Matthew Brook, A New Abridgement of the Law, 7th ed., 8 vols., ed. H. Gwillim (vols. 2-4) and C. Dodd (vols. 1, 5-8), (London: Strachan, 1828) at vol. 7, p. 664; Robert Brook, La Grande Abridgement, 2 vols. (n.p., 1573), "Faux Imprisonment", pl. 28, vol 1, p. 330; Brookshaw v. Hopkins (1773), Lofft. 240 at 243 (K.B.).

⁶⁸Essentially, the madhouse acts restricted confinement of the insane outside county asylums to licensed premises, and required procedures prescribed in the act to be followed. Even when such procedures were followed imperfectly, however, the courts tended to hesitate to intervene: v., for example, R. v. Inhabitants of Minster (1850), 14 Q.B. 349 at 362, where Lord Chief Justice Campbell held that once a lunatic had been received on improper documentation, there was a continuing obligation to continue the confinement until the discharge of the lunatic by proper authority. In a similar vein, v. In Re Shuttleworth (1846), 16 L.J. (N.S.) M.C.18; 9 Q.B. 651, which holds at L.J. (N.S.) M.C. 21 that the court has a residual discretion not to release dangerous lunatics, notwithstanding flaws in committal documents.

⁶⁹30 & 31 Vict., c. 106, s. 22. Under this section, an insane person could be

There has been a tendency to consider workhouse care of the insane as substandard and particularly unpleasant. Certainly, there is anecdotal evidence to support such a vision. The annual reports of the Lunacy Commission recited instances of restraint, inadequate accommodation, insufficient exercise, substandard food, occasional cruelty, insufficient or nonexistent record-keeping, poor locations, and lack of curative treatment directed towards the insanity.⁷⁰ These images will be discussed in greater detail below.⁷¹ Suffice it here to say that the poor law authorities contested the claim that such conditions were in any way typical, and occasionally the Lunacy Commissioners themselves might acknowledge reasonable standards of workhouse care in their annual reports. More generally, the Lunacy Commission annual reports tended to highlight matters requiring correction, not merely as regarding workhouse care, but also care in private madhouses. As will be shown below, the Lunacy Commission had few formal powers, and these reports served to lobby for specific policy objectives, to maintain pressure for increased standards of care generally, and to entrench their own somewhat precarious place in the administrative framework. The images in the annual reports therefore should not be taken

detained in the workhouse if the medical officer of the house certified that "such Person is not in a proper State to leave the Workhouse without Danger to himself or others". The wording of the amendment is to be understood in its context. A question had been raised as to whether a union might detain a weak-minded pauper who applied for discharge but would not be safe without supervision. The legal opinion which resulted stated that the common law power to detain would be satisfied if the guardians "could establish the insanity of the Pauper, and his unfitness to be at large": Twentieth Annual Report of the Commissioners in Lunacy, PP 1866 (317) xxxii 1 at 23. This was a broader meaning than would have been understood by the word "dangerous" in the context of the fourteen day limitation on detention of dangerous insane persons in the workhouse under the 1834 act, a limitation which remained in effect. The committal standard for the workhouse appears to have been directed instead at those insane persons who could not survive outside the workhouse.

⁷⁰Many of the annual reports contain such allegations about particular workhouses, and some about workhouses in general. Particularly vehement denunciations are contained in the Supplement to the Twelfth Annual Report of the Commissioners in Lunacy, PP 1859 1st sess. (228) ix 1. See also the testimony of Lord Shaftesbury, chair of the Lunacy Commission, to the Select Committee on Lunatics, 11 April 1859, reported at PP 1859 1st sess. (204) iii 75 at questions 629 sq.

⁷¹See especially appendix 5.

uncritically.

Indeed, there might be reasons why workhouse care might be preferable for the lunatic, depending on the individual asylum or workhouse ward where the lunatic would be kept. The asylum in the lunatic's county might be located miles from their family, rendering visits a practical impossibility. Visiting hours might also be more liberal in the workhouse. In some cases, notwithstanding the pride of the asylum in providing a liberal diet, the lunatic might actually receive more food in the workhouse.⁷² Some workhouses put lunatics under the care of paupers some of whom were old and feeble-minded, but an increasing number in the 1850s and 1860s provided qualified and professional attendant care similar to the asylums, and regular medical visitation. For lunatics contained in general wards, the workhouse offered the possibility of mixing with the general inmate population, providing arguably less stigma than confinement in the asylum, and perhaps a more interesting existence. Even the Lunacy Commissioners at their most critical did not object to this practice for lunatics who were fit to be in such wards.⁷³ Dedicated lunatic wards of workhouses were not necessarily mere warehouses for the insane. In 1859, a physician testified before the Select Committee on Lunatics that because of their smaller size and the resulting greater possibility of individual attention, workhouse lunatic wards actually offered better care than the county asylums.⁷⁴

Outdoor relief also continued for the pauper insane. Such relief for the insane is consistent with the policy of the new poor law, which was in theory concerned most immediately with confinement of the able-bodied poor in workhouses. The statistical significance of such relief waned under the new poor law, however, from roughly a

⁷²See, for example, the case of Leicester, discussed below. The dietaries for the Leicester workhouse and the Leicestershire and Rutland Lunatic Asylum are reproduced in appendix 3.

⁷³See, for example, Fourteenth Annual Report of the Lunacy Commission, PP 1860 (338) xxxiv 231 at 19.

⁷⁴Testimony of Dr. George Webster to Select Committee on Lunatics, 4 August 1859, reported at PP 1859 2nd sess. (156) vii 501 at questions 2308 and 2317 sq.

quarter of the insane poor at mid-century to only about six per cent in 1890. Thus while it is doubtful whether the institutional solution to pauper insanity may be equated with care in county asylums, the decreasing importance of outdoor relief does suggest that the institutional solution was adopted for the pauper insane in the nineteenth century.

The care of the insane in workhouses and on outdoor relief survived the nineteenth century. Thus the Minority Report of the Poor Law Commission estimated in 1909 that nearly 70,000 mentally defective persons under the jurisdiction of the poor law, compared to no more than 120,000 in asylums.⁷⁵ Indeed, their argument that such a large group of persons ought to be withdrawn from the poor law was taken by them as entailing the breakup of the entire poor law system.⁷⁶

The asylums and the remainder of the poor law were not two systems operating in parallel. They were instead parts of the same system. They were, after all, administered by the same people. Notwithstanding the creation of the poor law and lunacy central authorities, most administrative duties rested with the local boards of guardians and their staff, and apart from the signing of the actual order authorizing admission to the asylum, the administration of pauper lunacy relied almost entirely on the poor law staff.

Thus it was poor law medical officers who after 1845 were to keep lists of insane paupers not in asylums, and visit them quarterly.⁷⁷ This section is a

⁷⁵Minority Report of the Poor Law Commission, 1909, (London: National Committee to Promote the Break-Up of the Poor Law, 1909) at 297. These figures include "over 11,000 certified lunatics, imbeciles, and idiots" in general mixed workhouses, and "at least 40,000" and 12,000 on out-relief described as "feeble-minded, epileptic, or requiring special treatment" in workhouses. They do not include 47,000 children in schools for mental defectives, and a variety of persons in inebriate asylums and institutions for epileptics who might well have been classed as insane in the previous century.

⁷⁶*Ibid* at 306.

⁷⁷v. 8 & 9 Vict., c. 126, s. 55. At least according to the Lunacy Commissioners,

supplement to a requirement dating back to 1828 that overseers of the poor under the old poor law to make annual lists of pauper lunatics.⁷⁸ Medical officers were also under a duty to report any pauper lunatic they encountered to the poor law relieving officer within three days.⁷⁹

The statutes seem to envisage that this would be the standard entry route into the committal system. Indeed, the statute tended to suggest an image of poor law officers combing the shires for insane paupers. The reality was somewhat different, as will be seen in subsequent chapters. In fact, it appears often to have been the lunatic's family or occasionally neighbours who approached the poor law officials. Thus the initial contact was normally with the poor law relieving officer.

It was the poor law relieving officer who completed the particulars of the order for reception. These particulars were not merely basic personal facts such as name and address, but also included some describing features of the insanity: length of time insane, whether first attack, age on first attack, whether suicidal or dangerous to others, and, after 1853, the supposed cause. It was the relieving officer who had carriage of the application from this stage. The statute imposed a duty to bring the alleged lunatic before a Justice within three days.

Next, medical certificates were necessary. Until 1853, poor law medical officers were precluded from signing these certificates, but after 1853, their involvement quickly became the norm. In theory, it was the responsibility of the Justice to arrange for the medical examination; in practice, it would appear that this was done prior to approaching the Justice.

these lists were notoriously inadequate until a fee of two shillings and sixpence was required to be paid for each visit in 1853 pursuant to 16 & 17 Vict. c. 97, s. 66.

⁷⁹ Geo. IV, c. 40, s. 31, re-enacted in the various statutory consolidations for the remainder of the century.

⁷⁸ & 9 Vict., c. 126, s. 48, re-enacted in the various consolidations throughout the century. The scope of this duty is discussed further in chapter three.

It was at this stage that the Justice was called upon to sign the order for admission. If two medical certificates were presented to the Justice, one signed by the poor law medical officer and another by an independent doctor, the Justice in theory had no discretion not to confine the pauper.⁸⁰ This was the extremely rare case.⁸¹ Normally, confinement was discretionary on the part of the Justice. Discharge from the asylum was within the powers of the visiting Justices, Justices nominated annually by Quarter Sessions to superintend the running of the asylum.

It was theoretically compulsory for relieving officers to bring all pauper lunatics before a Justice, except for a brief period from 1853 to 1862 when discretion was given not to report a lunatic if not "a proper person to be sent to an asylum".⁸² After 1853, the duty of the medical officer to commence committal proceedings through notifying the relieving officer was also discretionary. The 1862 statute gave the workhouse medical officer an additional authority to certify a lunatic as "a proper Person to be kept in a Workhouse",⁸³ suggesting no diminution of the responsibility of poor law staff to determine the place where lunatics were to be kept. In any event, it appears clear that poor law staff were not bringing all lunatics before Justices, but were streaming paupers off into other systems of relief.

Even at the level of the Justices, the division between the asylum and the remainder of the poor law was not as great as might first appear. While the new poor law limited the direct role of the individual Justice in the administration of poor relief, it did not oust the jurisdiction of Justices in Quarter Sessions, particularly in the important matter of disputes between unions over settlement and thus liability for payment. Furthermore, local Justices in rural unions sat ex officio on boards of

⁸⁰This provision was in effect commencing in 1846: v. 9 & 10 Vict., c. 84, s. 1. This provision was re-enacted in subsequent consolidations.

⁸¹My research in Leicestershire did not turn up a single case where this rule applied.

⁸²16 & 17 Vict., c. 97, s. 67; rep. 25 & 26 Vict., c. 111, s. 19.

⁸³25 & 26 Vict. c. 111, s. 20.

guardians. The indications are that in some unions, these ex officio members were less active than the elected members,⁸⁴ but their continued membership suggests a closer administrative relationship between asylum admission and the remainder of the poor law than might be first apparent from the statutes. The Justices must be taken to have been aware of the relief to the insane being offered in other branches of the poor law. They must at least tacitly have approved of such relief, as the statutes gave them a clear power to intervene and remove insane paupers to the asylum howsoever knowledge of that pauper came to them.⁸⁵

The integration of the asylum admission procedures with the remainder of the poor law continued if the lunatic pauper was placed on poor relief outside the asylum. For paupers on outdoor relief, the system of quarterly visitation by poor law medical officers continued, with the resulting duties to report to relieving officers. Those admitted to the workhouse, would be placed immediately in a probationary ward, pending examination by the medical officer of the facility. The rules then stated:

If the medical officer, upon such examination, pronounces the pauper to be labouring under any disease of body or mind, the pauper shall be placed either in the sick ward, or the ward for lunatics and idiots not dangerous, as the medical officer shall direct.⁸⁶

The medical officer was required periodically to visit insane paupers in the workhouse, to provide all necessary instructions for their diet and treatment and to report them

⁸⁴v. Anne Digby, Pauper Palaces, supra, at 5 and 78. Digby states that in Norfolk and Durham, Justices were less active as ex officio Guardians than their elected counterparts, but acknowledges that in Northamptonshire, at least in the early stages of the new poor law, the Justices and the elected Guardians were equally active.

⁸⁵This power dates from at least 1819: 59 Geo. III, c. 127, s. 1. When the application procedures became more explicit in 1845, the power of the Justice to act on his own knowledge continued: v. R. v. Inhabitants of Rhyddlan (1850), 14 Q.B. 327. This power was made more explicit in the 1853 statute: 16 & 17 Vict. c. 97, s. 67.

⁸⁶First Annual Report of the Poor Law Commission PP 1835 (500) xxxv 107, at 59.

to boards of guardians.⁸⁷ These provisions allowed for the continued identification of paupers for removal to an asylum. In Leicestershire, as shall be shown below, a little over a quarter of asylum admissions in the first half of the 1860s were admitted from the workhouse.

Given the administrative focus of the care of lunatic paupers, it is not a surprise that poor law administrative manuals tend to include the duties of the poor law officials regarding lunacy.⁸⁸ William Golden Lumley, a barrister and assistant secretary to the Poor Law Commissioners, devoted an entire book to the 1845 lunacy acts.⁸⁹

The administrative processes focus on the poor law officials to the exclusion of both the central authorities and the asylum staff. The involvement of these bodies was not completely ousted. Thus while the asylum staff had no role in the admission of patients, they did have an advisory role in patient discharge from the asylum.

The central authorities' involvement was more formalized. They received copies of the lists compiled by the medical officers along with the medical officers' comments about the individuals on those lists, and they did follow up with queries about dubious cases. The poor law central authority might be quite tenacious in advocating asylum admission where there was some reason to believe an individual

⁸⁷See articles 12 and 37 of the original rules, reprinted as appendix A(9) to the First Annual Report of the Poor Law Commissioners, PP 1835 (500) xxxv 107, and articles 78 (2) and (3) of General Workhouse Rules of 1842, printed as appendix A(3) to the Eighth Report of the Poor Law Commissioners, PP 1842 [359] xix 1.

⁸⁸See, for example, Michael Nolan, A Treatise of the Laws for the Relief and Settlement of the Poor, 4th ed, 3 vols. (London: Butterworths, 1825) at 352 ff., 375 ff. and 408 ff.; William Golden Lumley, Manuals of the Duties of Poor Law Officers: Master and Matron of the Workhouse, (London: 1869) and Manuals of the Duties of Poor Law Officers: Medical Officer (London: Knight, 1849); Shaw's Union Officers' and Local Boards of Health Manual for 1858, ed. W.C. Glen, (London: Shaw and Sons, 1858); and Archbold's Poor Law, 12th ed., ed. W.C. Glen, (London: Shaw and Sons, 1843).

⁸⁹The New Lunacy Acts, (London: Shaw, 1845).

on outdoor relief might actually be dangerous, but their effectiveness lay more in persuasion than in the threat of legal intervention. The Lunacy Commissioners and poor law inspectorate both visited workhouses regularly, and the Lunacy Commissioners particularly might recommend the removal of individuals to the asylum. Lunacy Commissioners also made annual visitations to the county asylums, and recommended alterations in accommodation. The legal powers of the central authorities were once again limited here, however, and they tended to rely on persuasion.

The asylum system was built on the poor law administrative infrastructure. It is at least arguable that the new poor law made the growth of the county asylum a real possibility. Prior to the introduction of the new poor law, county asylums were few and small.⁹⁰ The introduction by the new poor law of a professional administrative staff created the bureaucratic machinery to make a national system of asylums feasible. This may not have been a sufficient condition for the creation of large county asylums, but it was certainly a necessary one, as it is difficult to see the voluntary officers of the old poor law, with its haphazard and patchwork variety of relief, as yielding the relatively consistent approach of the post-1834 bureaucracy.⁹¹

Initial Objections and Responses

⁹⁰Only thirteen county asylums were built prior to the enactment of the new poor law: Bedford (1812), Nottingham (1812), Norfolk (1814), Lancashire (1816), Staffordshire (1818), Wakefield (1819), Cornwall (1820), Gloucester (1823), Cheshire (1825), Middlesex (1831), Suffolk (1829), Dorset (1832), and Kent (1833).

⁹¹The fact that rate-financed county asylums become dominant as compared to public subscription asylums which had little effect in England but rose to prominence in Scotland, is referred to as "one of the oddities of the institutionalization of insanity in England" by Roy Porter: Mind-Forg'd Manacles, *supra*, at 135. Viewed in the context of this thesis, it is not an oddity at all. Scotland, with its poor relief system much more similar to the old poor law, never developed the professional poor relief bureaucracy which made the county asylum system possible; nor did it move to the intensified moral policing of the poor implicit in England's new poor law.

The existing history of madness provides a number of orthodoxies as to the motivating factors of the local poor law decision-makers. Some of these are themes which will be elaborated on in the remainder of this thesis: the behaviour of the individual and the possibility of cure being the most obvious examples. Several others have been influential, but are in the end unsatisfactory: the relative expense of asylum care, the lack of space in county asylums, and the distinction between idiocy and lunacy. Those are discussed here.

Expense is the most common factor cited. Anne Digby's comment that care of the mentally ill was "stifled by financial pressures within a destitution authority" is typical of the approach.⁹² This approach reflects the attitude of the Lunacy Commissioners. Their chairman, Lord Shaftesbury in his testimony to the 1859 Select Committee on Lunatics referred to "the dogged and passive resistance which is offered by the [local poor law] authorities, who are determined that they will not incur what they consider will be an increased expense,"⁹³ Needless to say, these allegations were firmly denied by the poor law authorities. As one put it, "they [the guardians] would not trifle with the brains of any fellow-creature to save themselves a few shillings."⁹⁴

There was no question that the asylum was more costly than the workhouse, although different accounting practices made (and make) it difficult to assess the precise degree of the difference. According to Lord Shaftesbury in 1859, a typical asylum would pay three shillings eight-and-a-half pence per pauper per week for food,

⁹²Anne Digby, The Poor Law in Nineteenth-Century England and Wales, *supra*, at 34 f.

⁹³Testimony of Shaftesbury before the Select Committee on Lunatics, 17 March 1859, PP 1859 1st sess. (204) iii 75 at questions 615.

⁹⁴H.B. Farnall (a Poor Law Inspector for the Metropolitan District, and previously for Lancashire and Yorkshire) to the Select Committee on Lunatics, 24 March 1859, PP 1859 1st sess. (204) iii 75 at questions 1616. See also the evidence of Andrew Doyle (Poor Law Inspector for North Wales, Cheshire, Shropshire, Staffordshire, etc) to the Select Committee on Lunatics, 28 July 1859, PP 1859 2nd sess. (156) vii 501 at questions 1836-7.

and an additional eight-and-a-quarter pence for clothing, for a total of just under four shillings and five pence a week maintenance.⁹⁵ Shaftesbury argued that this compared not too unfavourably with workhouse maintenance charges of four shillings per week, which referred to the same items of expenditure.⁹⁶

The Lunacy Commission, like some subsequent historians, saw economy as a pervasive motivation of the poor law administrators, but this position must be viewed critically. They claimed, for example, that lunatics were not placed in the care of their friends because the guardians believed that "the cheapest way is to get them within the walls of the workhouse, and there stint them, and starve them. ... They say, 'We will keep them very quietly here, and almost for nothing.'"⁹⁷ Such out-door relief would generally have been cheaper than workhouse confinement, however. In Billesdon union in Leicestershire in 1863, for example, maintenance charges in the workhouse were roughly three shillings and sixpence per week. Outdoor relief ranged from one shilling and ten pence per week to four shillings and ten pence, but only one of the ten insane persons receiving outdoor relief received more than three shillings.⁹⁸ Any reluctance of the poor law authorities to place people on outdoor relief thus cannot simply be ascribed to parsimonious motives.

Instead, the evidence seems to point to a rather startling willingness of the poor

⁹⁵v. his testimony before the Select Committee on Lunatics, PP 1859 1st sess. (204) iii 75 at questions 592 to 599.

⁹⁶Other workhouse maintenance charges might be somewhat less expensive, however: Billesdon Union in Leicester charged three shillings and sixpence per week in 1863, and Barrow Union three shillings in 1859: v. PRO MH 12/6415, "List of Chargeable Lunatics", dated 27 February 1863 and PRO MH 12/6401, "Annual Return of Lunatics for 1859" respectively, somewhat increasing the differential identified by Lord Shaftesbury.

⁹⁷Testimony of Shaftesbury before the Select Committee on Lunatics, 17 March 1859, PP 1859 1st sess. (204) iii 75 at questions 678 and 679.

⁹⁸PRO MH 12/6415, "List of Chargeable Lunatics", dated 27 February 1863. (no further accession number). The workhouse statistic does not include any contribution to capital or staff costs, which were paid from a separate account, so the real costs of workhouse care would have been higher.

law authorities to spend money on the care of the insane. This is easiest to see with reference to county asylums, where accounts were kept separately from the remainder of the poor law. The nineteenth century after the new poor law represented a veritable explosion in asylum care and construction. In 1832, there had been thirteen county asylums. By 1858, that number had tripled, and by 1890, the total had reached sixty-six. The average size of asylums grew from 116 inmates in 1826, to 298 in 1850, to 387 in 1860, and would surpass 800 in 1890.⁹⁹ In 1856, seventeen of the thirty-two asylums open at that time had some form of building programme in operation.¹⁰⁰ Hanwell Asylum in Middlesex had been constructed in 1831 for 500 patients. Within two years, it was full. Within a further two years, it contained an excess of 100 people, and within a further two years, it was enlarged to accommodate 800. By 1851, it contained over 1000 patients, and a second Middlesex asylum, Colney Hatch, was built to accommodate 1,200 patients. By 1856, the Lunacy Commissioners had been asked to expand Hanwell by a further 600 to a total size of 1620, and Colney Hatch by more than 700, to almost 2,000.¹⁰¹ Asylums were being built, and people were being sent to them. It is difficult, given this explosion, to see where the reluctance of the poor law decision-makers to spend money on pauper lunatics was manifest.

The expenditure on asylums in real terms reflects this. By 1863, the poor law authorities were spending over half a million pounds per year on asylum charges, a figure which grew to £ 1.2 million in 1890. From 1857 to 1890, total expenditures on asylum charges were almost £ 27.5 million. This figure grew from eight per cent of the total expenditures in relief of the poor in 1857, to fourteen per cent in 1890.¹⁰² By the early 1860s, expenditures on pauper lunatics in asylums were more

⁹⁹Andrew Scull, Museums of Madness, *supra*, at 198.

¹⁰⁰Eleventh Annual Report of the Lunacy Commissioners, PP 1857, 2nd sess., (157) xvi 351. An additional five asylums were near to completion, at that time.

¹⁰¹Eleventh Annual Report of the Lunacy Commissioners, PP 1857 2nd sess. (157) xvi 351.

¹⁰²Figures drawn from the Twentieth Annual Report of the Local Government

than double the amounts spent on all medical relief to the poor; by 1877, they were more than treble.¹⁰³ These sums do not include monies expended in the erection, staffing, and maintenance of insane persons in workhouses, expenses which were not accounted separate from other workhouse expenses, but which must have been considerable and increasing in proportion to other workhouse expenses with the construction of more and more sophisticated lunatic wards in workhouses in this period. Payments for lunatics on outdoor relief would have added additional expenses.

The asylum expenses cited do not include collateral costs of asylum admission, such as transportation to the asylum, costs which were not insignificant. Burbage Parish in Leicestershire, for example, paid from one pound to two pounds ten shillings for conveyance of a lunatic the eleven miles to the Leicester Asylum in the second half of the 1840s. The medical examination prior to 1853 when poor law medical officers were authorized to complete the required certificates would cost the parish an additional 10 shillings. As a point of comparison, the asylum charged seven shillings per week for maintenance at this stage. In the event that the asylum was full, the parish sent paupers to a private asylum, Haydock Lodge. Transportation of a pauper from Haydock Lodge cost the parish about four pounds ten shillings in 1846.¹⁰⁴

Thus the financial commitment made by the poor law authorities was considerable. The question can always be asked whether enough money is being

Board, at appendix F(118). See also appendix 1. In 1860, paupers in county asylums had represented two per cent of the total paupers relieved; by 1890, they represented seven per cent of total paupers relieved.

¹⁰³Figures for medical relief drawn from Twentieth Annual Report of the Local Government Board, PP 1890-91, Appendix F(116).

¹⁰⁴Burbage Parish Receipt and Disbursement Book, 1838-47, LRO DE 3120/1. The expenses and inconvenience of removal could be such in 1841 that the Metropolitan Commissioners in Lunacy complained that they "not infrequently occasion his [i.e., the pauper lunatic's] being improperly continued in confinement.": Annual Reports of the Metropolitan Commissioners in Lunacy 1835-41, PP 1841 2nd sess. (56) vi 235 at 7f.

spent. Particularly given the considerable expenditures being made, it would be surprising if poor law authorities were not concerned about the costs of pauper lunacy. This is particularly true given that one of the justifications for the introduction of the new poor law was the previous escalation in the cost of poor relief. Nonetheless, the patterns of confinement and payment do not support the claim that the decision-making regarding lunacy was simply driven by concerns about economy.

The lack of space in asylums is also touted as a reason for workhouse accommodation of the insane,¹⁰⁵ and once again such claims are not without their support in the nineteenth century documents.¹⁰⁶ Again, it is not suggested that this was never a factor, but rather that it is not entirely satisfying as a comprehensive explanation. According to figures provided in the Eleventh Annual Report of the Lunacy Commissioners, only ten of the thirty-seven asylums turned anyone away in 1856. In London, 618 people were turned away that year, but outside London, the number was much smaller: only 304 for the entire country. In total, on 1 January 1857, the system was operating at approximately 91 per cent of capacity.¹⁰⁷

The opening of two new county asylums in Lancashire in 1851 further suggests that a low vacancy rate in asylums was not the only factor in sending people to workhouses. There was already an asylum in Lancashire, Lancaster Moor. In 1850,

¹⁰⁵See, for example, Marlene Arieno, Victorian Lunatics, (London and Toronto: Associated University Presses, 1989) at 32 f.; Ruth Hodgkinson, "Provision for Pauper Lunatics, 1834-71", 10 Medical History (1966) 138 at 150.

¹⁰⁶See, for example, the report of the Lunacy Commissioners to the Poor Law Commissioners reproduced as Appendix (A) to the Supplementary Report of the Lunacy Commissioners, PP 1847 [858]; in octavo 1847-8 xxxii 371 at 262; Fifth Annual Report of the Commissioners in Lunacy, PP 1850 (735) xxiii 393 at 12 f.; Eleventh Annual Report of the Lunacy Commissioners, PP 1857, 2nd sess. (157) xvi 351 at 22; Ninth Annual Report of the Poor Law Commissioners, PP 1843 [468] xxi 1 at 21; Tenth Annual Report of the Poor Law Commissioners, PP 1844 [560] xix 9 at 19 f.; Report of the Commissioners for Administering the Laws for Relief of the Poor in England, 1848 [i.e., first annual report of the Poor Law Board], PP 1849 [1024] xxv 1 at 8.

¹⁰⁷Eleventh Annual Report of the Commissioners in Lunacy, PP 1857, 2nd sess. (157) xvi 351 at appendix D.

it can be estimated that there were roughly 1,807 insane paupers in Lancashire: 758 in the existing county asylum, 380 in private madhouses or hospitals, and roughly 673 in workhouses.¹⁰⁸ With the opening of the two new asylums, available asylum accommodation rose to approximately 1658 places, enough to accommodate almost all lunatics then in asylums, workhouses, and private madhouses in the county. The commissioners reported gleefully in their sixth (1851) annual report:

The happy effect of these judicious arrangements is already very sensibly felt. The Workhouses in the County of Lancaster, many of which, until the last year, contained numerous cases of insanity in its various forms, and more especially of dangerous epilepsy and idiocy, have now been in a great measure relieved from a charge which ought never to have been imposed on them.¹⁰⁹

The statistics tell a somewhat different story. In 1852, there were approximately 1,976 insane paupers in the various facilities. The three asylums contained a total of 1,277, private madhouses and hospitals four, and workhouses 695.¹¹⁰ The sixth annual

¹⁰⁸The numbers for the asylum, the licensed madhouses and the hospital are taken directly from the appendices to the Fifth Annual Report of the Commissioners in Lunacy, PP 1850 (735) xxiii 393. The figure for workhouses is more problematic, since all workhouses were not visited by the Commissioners in any given year. The Commissioners did tend to visit more regularly the workhouses containing specialized lunatic wards, of which there were seven in Lancashire, or large numbers of lunatics. The figure included in the body of the text is the sum of insane in workhouses visited in 1849-50, from the Fifth Annual Report, (570 in number), those in workhouses visited in 1848-99 and not in 1850, from the Fourth Annual Report, PP 1850 (291) xxiii 363 (99 in number), and those in 1847-8 for those not visited in the two later years from their Third Annual Report, PP 1849 [1028] xxii 381 (4 in number), for a total of 673.

¹⁰⁹Sixth Annual Report of the Commissioners in Lunacy, PP 1851 (668) xxiii 353, at 5 f.

¹¹⁰1851 statistics are not used for comparison because the two new asylums open on the cusp of the statistical year, on 1 January 1851. The statistics contained in the sixth (1851) annual report showed no persons accommodated in the two new asylums; as regards the asylums, the situation represents the status quo on 31 December 1850. It would appear that this is also true of the madhouse statistics. The workhouse statistics until 1853 reflect visits made between 1 July and 30 June of the following year, so it is not possible to tell which workhouses were visited before and which after

report provides some anecdotal evidence that paupers were transferred from the Manchester workhouse to the new asylum at Prestwich.¹¹¹ The new asylums had removed pauper lunatics from private madhouses in Lancashire, at least temporarily, consistent with the priority accorded by the commissioners to removing pauper lunatics from establishments motivated by profit. Haydock Lodge, a private asylum which had housed 355 pauper patients prior to the opening of the new county asylums, was entirely closed down and renovated to receive private patients, although by the end of 1854, it was once again housing fifty-three paupers.¹¹² What is relevant for the present discussion is that, notwithstanding that the asylums were operating at only seventy-seven per cent capacity, the total number of insane in workhouses was continuing to grow.

It is much too simplistic to ascribe the continued accommodation of the insane in workhouses to a lack of available accommodation in asylums. The Commissioners in Lunacy themselves recognized this in their Eleventh Annual Report (1857), and ascribed a desire of the local officials to keep the rates down as an additional reason

the asylums opened. The figures from the following annual report are used here, to avoid these accounting ambiguities.

The 1852 statistics have the comparable weakness to the 1850 statistics, discussed supra. The figures for the three asylums, for licensed houses and for hospitals drawn directly from the Seventh Annual Report of the Lunacy Commissioners, PP 1852-3 xlix 1, and reflect the situation on 1 January 1852. The workhouse figures reflect the number of insane persons in workhouses visited by the commissioners in 1851-2, as presented in the seventh annual report (totalling 287) plus those in workhouses visited by the Commissioners from July 1852 to December 1853, as reflected in the Eighth Annual Report, PP 1854 (339) xxix 1 (totalling 393), and those visited in 1854 and not in the previous two years from the Ninth Annual Report, PP 1854-5 xvii 533 (totalling 15) for a combined total of 695.

¹¹¹Sixth Annual Report of the Commissioners in Lunacy PP 1851 (668) xxiii 353 at 6. A comparison of the figures in the fifth and seventh annual reports does indicate a fall of thirty paupers, from 131 to 101.

¹¹²v. Ninth Annual Report of the Lunacy Commissioners, PP 1854-5 (240) xvii 533 at 24 and appendix A. The county asylum at Lancaster Moor at this time had 664 patients, 94 less than in 1850.

for the continuation of the insane in workhouses.¹¹³

The commissioners commented upon the opening of the new asylums in Lancashire that the people remaining in the workhouses might "correctly be described as, nearly all, persons whose unsoundness of mind has the character of harmless idiocy or imbecility".¹¹⁴ The implication that it was idiots that were left in the workhouses, while cases of lunacy were the proper province of the asylum, appeared fairly frequently in the mid-nineteenth century documents,¹¹⁵ and it is therefore appropriate to ask whether the distinction between idiocy and lunacy is a useful one.

In law, the distinction between idiocy and lunacy had been important for hundreds of years.¹¹⁶ There were three points of distinction useful for the present discussion. Idiocy commenced at birth or very shortly after, while lunacy could commence at any time in a persons's life. Idiocy was a permanent state, whereas lunacy in law always allowed the possibility of cure. Finally, lunacy always allowed the possibility of a "lucid interval", a period of time when notwithstanding the continuation of the disease, the subject functioned normally; such a possibility was not consistent with idiocy.

By the nineteenth century, medical theory was creating different

¹¹³Eleventh Annual Report of the Lunacy Commissioners, PP 1857 2nd sess. (157) xvi 351.

¹¹⁴Sixth Annual Report of the Commissioners in Lunacy, PP 1851 (668) xxiii 353 at 6.

¹¹⁵See, for example, report of the Lunacy Commissioners to the Poor Law Commissioners, reproduced as appendix (A) to the Supplementary Report of the Lunacy Commissioners, 1847, PP 1847 [858]; in octavo 1847-8 xxxii 371 at 257 ff.; Fourth Annual Report of the Commissioners in Lunacy, PP 1850 (291) xxiii 363, at 16; Supplement to the Twelfth Annual Report of the Commissioners in Lunacy, PP 1859 1st sess. (228) ix 1 at 13; and the testimony of Andrew Doyle (poor law inspector) before the Select Committee on Lunatics, 28 July 1859, PP 1859 2nd sess. (156) vii 501 at 1716.

¹¹⁶The distinction was included, for example, in the 1324 Royal Prerogative statute, 17 Edw. II, stat. 1, chapters 9 and 10.

categorizations. First, a range of conditions had been developed, from idiocy, which affected all mental faculties, to imbecility, a less extreme condition. By 1824, leading alienist physician Alexander Morison was articulating these concepts in terms of both congenital and acquired conditions.¹¹⁷ By mid-century, the traditional categories were being criticized as unhelpful by leading members of the medical establishment. The physician Samuel Hitch, first head of the Association of Medical Officers of Asylums and Hospitals for the Insane remarked in his report on Leicester Workhouse:

I have used, as expressive of the forms of disease under which I found the patients suffering, the terms which are now recognized by Medical men conversant with Insanity, those of "Lunatic", "Idiots" and "Insane person", though still retained in Lawbooks not being descriptive of any distinct form of mental disease, nor capable of conveying any definite idea of the state or the prospect of his or her restoration.¹¹⁸

Along with dementia, melancholia, moral insanity, and epilepsy, Hitch did refer to idiocy and imbecility, but in the revised categorization only two persons fell into each of these classes of the thirty-one people identified as insane on the annual returns and remaining in the workhouse at the time of his report. This compares with seventeen of the thirty-six people identified as idiotic, imbecilic, "half-witted" or (in one case) "childish" on the return itself, completed a year before Hitch's report.¹¹⁹

The Lunacy Commissioners also claimed that the term 'idiot' was not being used in its medical sense:

The Poor Law Commissioners have, in their return of Pauper Lunatics in England and Wales for the year

¹¹⁷v. Janet Saunders, "Quarantining the weak-minded", in Bynum, Porter and Shepherd, eds, The Anatomy of Madness, vol III (London: Routledge, 1988) at 274.

¹¹⁸Correspondence between Leicester Union and the Poor Law Commissioners, PRO MH 12/6470, 18259/44 at page 10.

¹¹⁹The return is at PRO MH 12/6470 14532/43.

1842, returned the numbers of Lunatics belonging to Parishes formed into Unions, at that time, 6451, and of idiots 6261. In these Returns, the word 'Idiot' is used in a more extensive sense than that in which it is usually employed by medical men, and we think that the term ought to be confined to cases of congenital idiocy. This will account for the very large numbers which have been returned under this description, and which, in point of fact, includes a large number of lunatics of every class. The return would represent that the lunatics of all descriptions belonging to Parishes in Unions, throughout England and Wales, exceeds that of the idiots only by 190.¹²⁰

If the poor law authorities were not adopting the medical definitions, it was still not the case that they were using the old legal criteria with any consistency. Thus it is clear that idiocy did not necessarily originate at or near birth. The returns provided to the Poor Law Commissioners in 1837 required "born idiots" to be distinguished. Those returns indicate that of 5,060 idiots in poor law unions created at that time, only 3710 (73 per cent) were born idiots. This is consistent with the testimony of H.B. Farnall, a poor law inspector, to the Select Committee on Lunatics in 1859:

1599. What do you think is the malady, in the greater number of those cases, if there be one, which would not justify you in saying that they ought to be sent to an asylum? -- I think that they are harmless, idiotic, and incurable people.

1600. Would many of them come under the description of infirm people from age? -- Generally they would not. Generally they would be persons who are attacked by fits, and who suffer from fits severely, and therefore are very much weakened in their minds.¹²¹

¹²⁰Report of the Metropolitan Commissioners in Lunacy to the Lord Chancellor, (London: Bradbury and Evans, 1844), at 96 f. Reprinting PP [HL] 1844 xxvi 1.

¹²¹Testimony of H.B. Farnall to the Select Committee on Lunatics, 24 March 1859, PP 1859 1st sess. (204) iii 75.

A view of the statistics casts further doubt on whether a consistent theoretical structure was adopted at all by local poor law officials. In an introduction to the statistics relating to insanity in the twelfth annual report of the Poor Law Board, the Principal of the Statistical Department, Frederick Purdy, remarked on the difficulties of classification. The returns that year had generally classified directly according to idiocy or lunacy, but a wide variety of other classifications had been included on some returns. These had ranged from relatively technical terms, such as maniae potu, to lay terms such as "silly". The distinction drawn by the statistical department was that everyone who was congenitally insane would be classified as an idiot, while other insane people would be classified as lunatics. This classification was to be irrespective of the age at which the insanity commenced.¹²²

It is not clear, given the variety of designations listed in the report how the statistical department was in a position to ascertain who was congenitally insane and who not. It is also not clear that this was the distinction uniformly adopted by the individuals completing the returns. The variation in the frequency of idiocy relative to lunacy does not give cause for optimism. Mr. Purdy summarized:

12. The proportion of Idiots to the total number of Insane Paupers is between ONE THIRD and ONE FOURTH, i.e., 29.3 per cent. for the whole Country. But there is considerable variation from this proportion in different Union Counties, and in different Divisions. In the Metropolis, where it is the lowest, the ratio is 9.5 per cent.; and in North Wales, where it is the highest, it is 52.3 per cent.¹²³

London and Wales were the extremes. The remaining regions gave an appearance of greater consistency, ranging from 28.2 per cent to 35.7 per cent. The consistency

¹²²Frederick Purdey, "Remarks on the Return of Insane Paupers, chargeable on the 1st January 1859 (No. (E.) Sess. 1859)", being appendix 32 to the Twelfth Annual Report of the Poor Law Board, PP 1860 [2675] xxxvii 1 at 267.

¹²³Frederick Purdey, "Remarks on the Return of Insane Paupers, chargeable on the 1st January 1859 (No. (E.) Sess. 1859)", being appendix 32 to the Twelfth Annual Report of the Poor Law Board, PP 1860 [2675] xxxvii 1 at 270 f.

disappears, however, when individual counties are considered. Five English counties reported that over forty per cent of their insane were idiots, and in an additional fifteen, the ratio was greater than one in three. Two counties outside London, Rutland and the East Riding of Yorkshire, reported that less than twenty per cent of their insane persons as idiots, and Cornwall and Durham reported less than twenty-five per cent. These figures are not decisive. Local variations may occur. Nonetheless, the proportional range of idiots to lunatics does little to inspire confidence that uniform criteria were applied in the distinction between idiots and lunatics.

The Lunacy Commissioners themselves recognized the difficulty in distinguishing between the terms 'idiocy' and 'lunacy':

These terms, which are themselves vague and comprehensive, are often applied with little discrimination, and in practice are made to include every intermediate degree of mental unsoundness, from imbecility on the one hand, to absolute lunacy or idiocy on the other.¹²⁴

The usefulness of the categorization is correspondingly limited.¹²⁵

Conclusion

This chapter has been a justification of a starting point. In my view, the administration of the mad by the state in nineteenth century England was a part of the poor law. It relied upon poor law administration, and it confined paupers. Roy Porter

¹²⁴Annual report of the Lunacy Commissioners for the year ending 1855, quoted by Andrew Doyle (poor law inspector) in evidence before the Select Committee on Lunatics, 28 July 1859, PP 1859 2nd sess. (156) vii 501 at question 1716.

¹²⁵This view is consistent with Janet Saunders' claim for later in the century, that "in the workhouse as in the asylum, the variability of classification makes it difficult to discover how many inmates were insane, idiot, or weak-minded at any one time.": "Quarantining the weak-minded", *supra*, at 282.

argues against an "epistemological rupture" in medical treatment of the mad between the eighteenth and nineteenth centuries.¹²⁶ Rupture in medical theory there may not have been, but rupture in administration there was, in the creation and flourishing of county asylums. In the result, the poor represented roughly ninety per cent of those mad people in institutions by the end of the nineteenth century. In nineteenth century county asylums, private patients, including those relatively poor people placed through charitable schemes such as the one in Leicester, never accounted for more than two per cent of the inmates.

The nineteenth century manifested a change in administrative attitudes. In the eighteenth century committals were few, and only of the dangerous. As Porter has said, "In Georgian times public authorities had no brief systematically to police the mad."¹²⁷ The nineteenth century changed that. The Lunacy Acts provided the authority for the close policing of the mad poor, and the new poor law provided the administrative machinery. While the policing may never have been as close as the statutes intended, it was of a fundamentally different sort from that of the eighteenth century.

And yet if there was rupture, there was also continuity. The old poor law had generated a variety of institutional responses to poverty: workhouses, almshouses, houses of correction, dispensaries and medical services being obvious examples. The county asylum, with its legislative roots pre-dating the introduction of the new poor law by a quarter of a century, was a part of that diversification, and its authority structures continued to reflect those old poor law roots. The rupture cannot therefore be considered in isolation, but instead relative to the alteration in poor law theory and practice which occurred in the nineteenth century. The interplay between this reform and continuity is a theme which will recur in the chapters which follow.

¹²⁶Roy Porter, Mind-Forg'd Manacles, *supra*, at 277 and 142.

¹²⁷Porter, Mind-Forg'd Manacles at 121. Porter apparently agrees that the new poor law and the 1845 County Asylum Act changed this for the poor: v. 278.

Chapter 2: The New Poor Law

The previous chapter argued that the law relating to the insane in the nineteenth century was in essence a branch of nineteenth century poor law. The poor law, in turn, underwent a revolution of its own with the introduction of the new poor law in 1834, and understanding the development of the care of the insane therefore requires an understanding of the theory and implementation of that transition.

This is complicated, not merely because of administrative distinctions between care of the insane and the remainder of the poor law, but also because of theoretical and practical divisions within the poor law itself. The 1834 amendments focused on the able-bodied poor. The principle of less-eligibility, their linchpin, lay at the intersection of the versions of utilitarianism and evangelicalism espoused by the members of the 1832 Royal Commission. This ideology was tremendously influential. It was not that it was generally agreed upon. Objectors ranged from workers who rioted, to the Times, which ran a campaign against the 1834 provisions for at least a decade. It was more that the principles of 1834 created a new orthodoxy. Arguments may have been for or against, but these principles were what the dispute was about, and those in opposition defined themselves less according to some unifying and coherent alternative theory than simply in juxtaposition to the 1834 programme.

The poor law of lunacy lay outside this area of agreement, and, like the provisions for the non-able-bodied poor, was not included in the 1834 statute. Instead, it had its own largely distinct statutory history. While the poor law of lunacy retained much of its old poor law legal form, it relied on new poor law bureaucratic personnel, and was required to fit into the structure of the new poor law workhouses and outdoor relief. The result was a peculiar hybrid, and the tensions implied will form a recurrent theme in the remainder of this thesis. Before embarking on that, it is necessary to

establish the context through a discussion of the theoretical roots and the implementation of the new poor law.

Political Theories: Smith, Malthus, and Bentham

Adam Smith presents a convenient starting point for identifying the intellectual roots of nineteenth century poor law reform. Unlike the previous paternalist social vision, Smith perceived society as a harmony of individuals acting in their own interest; to act in such a fashion was part of human nature. Gertrude Himmelfarb makes this point:

To Smith (and to the Scottish Enlightenment in general), it was not reason that defined human nature so much as interests, passions, sentiments, sympathies. These were qualities shared by all people, not in some remote future but in the present. No enlightened despot was required to activate those interests, no Benthamite legislator to bring about a harmony of interests. All that was necessary was to free people -- all people, in all ranks and callings -- so that they could act on their interests. From these individually motivated, freely inspired actions, the general interest would emerge without any intervention, regulation or coercion.¹

This conceptualization applied as much to the poor as to the rich. As Mitchell Dean points out, 'the poor' had become "labourers who ought be treated, like all other groups, as rational subjects of exchange", acting in their own self-interest and seeking to better their condition.²

Smith's theory was of the eighteenth, not the nineteenth century political tradition. He never attacked the poor laws directly, although he did criticise the laws

¹The Idea of Poverty, (London: Faber, 1984) at 53.

²Constitution of Poverty, (London: Routledge, 1991) at 135; v. also Himmelfarb, Idea of Poverty, *supra*, at 57.

relating to settlement and apprenticeship, and although his theories did provide fodder for later poor law abolitionists. Others, most notably Edmund Burke, later in the eighteenth century, used Smith's arguments to justify that the only poor deserving relief were those who could not work-- the sick and infirm, the decrepit and old; labourers were to rely on their own resources.³ Smith proposed no grandiose system to "solve" the "problem" of poverty: those would come later. He certainly was not damning of the poor in any way; indeed, his assumptions seems rather to have been that the vast bulk of the poor were sober and industrious.⁴ However, the vision of the poor person, and particularly the poor man, as freely acting in his own interest was to pervade the discussions surrounding poor law reform.

Economic argument relying on Smith was used to mount a general attack on the poor laws first by Townsend and then Malthus. Townsend argued⁵ that in a state of nature, without state intervention, there was an equilibrium between population and food supply. The poor laws upset this equilibrium, providing value in excess of the labours of the poor, resulting in excess population growth among the poor. This in turn necessitated the provision of more relief, and a spiral of poverty was created. The argument was therefore abolitionist: the provision of poor relief in fact aggravated the problem it was designed to solve, and the solution to the problem of poverty was to put a stop to this spiral by the removal of poor relief.

Malthus, by comparison, argued for a natural dis-equilibrium between food supply and population. His formula has become famous:

It may be safely pronounced therefore, that population when unchecked goes on doubling itself every twenty-five years, or increases in a geometrical ratio.

* * *

³v. Himmelfarb, The Idea of Poverty, *supra* at 66 ff.

⁴v. Himmelfarb, Idea of Poverty, *supra*, at 62 f.

⁵A Dissertation on the Poor Laws by a Well-wisher of Mankind, (1787).

It may be fairly pronounced therefore, that, considering the present average state of the earth, the means of subsistence, under circumstances the most favourable to human industry, could not possibly be made to increase faster than in an arithmetical ratio.⁶

The crisis of poverty was thus contained within nature itself; it was certainly aggravated, but not created by the intervention of the poor law, and the abolition of the poor law was not in itself an entire solution to the problem. In addition, moral restraint was necessary among the poor, and failure to abide by that restraint was to yield both harsh consequences and moral judgment:

When nature will govern and punish for us, it is a very miserable ambition to wish to snatch the rod from her hands, and draw upon ourselves the odium of executioner. To the punishment, therefore, of nature he [i.e., those poor marrying improvidently] should be left, the punishment of severe want. ... He should be taught to know that the laws of nature, which are the laws of God, had doomed him and his family to starve for disobeying their repeated admonitions....⁷

The abolition of poor relief would better the lot of the average labourer, but it would equally force the poor at their peril to a life of moral restraint.

The result was reminiscent of Smith. The poor were acknowledged to be capable of acting in their own interests; they were correspondingly to be held accountable for their actions. Himmelfarb makes this point as follows.

Implicit in this argument was a beneficent view of human nature. The duty of every individual was

⁶An Essay on the Principle of Population, 1803 edition, ed. D. Winch and P. James, (Cambridge: Cambridge University Press, 1992) at 17, 19.

⁷Malthus, Essay on the Principle of Population, *supra*, at 262 f. Regarding the process of abolishing poor relief, Malthus advocated a system where relief would be denied for those poor born after a specific, publicized date. The passage quoted is drawn from his defense of this transition provision.

identical, it was 'intelligible to the humblest capacity,' and it was within the means of the humblest person. ... All that was necessary was that the poor understand that 'they themselves are in their own hands and in the hands of no other persons whatever.' The 'moral agent' was a free and responsible individual, the master of his own fate.⁸

Thus the acknowledgement that poor persons were able to make choices in their lives resulted in the imposition of a moral judgment onto those choices. Where the eighteenth century poor had been a fact of life, an unavoidable reality, or even in some formulations the basis of social wealth, the Malthusian revision would make them responsible for their own fate.

Malthus' Essay on the Principles of Population was published in 1798, and in the same year, Jeremy Bentham published his culminating work on poor law, Pauper Management Improved. For Bentham, the need for organized provision for the poor was not merely concerned with the wealth of the nation. He, like the early nineteenth century politicians, saw the problem of the poor as one of the stability of the state: the poor had to be provided for because of the practical threat they posed to the stability of the state in the event of a rebellion; the issue was one of security.⁹ That in turn implied preservation of the social order. Bentham accepted the distinctions between rich and poor, but as the rich expected their enjoyment of their property as a matter of right, so the English poor had corresponding expectations to be free from starvation, and be provided with a minimal subsistence.

Bentham's theory was thus not Malthusian in its direction; and while certainly containing implied moral precepts, it was not moralistic in the Malthusian way. Population was not a "problem" for Bentham, in the way it was for Malthus. While it may be jarring to the modern reader to see the poor referred to as "that part of the

⁸Idea of Poverty, *supra*, at 117 f.

⁹v. Dean, Constitution of Poverty, *supra*, at 187; Lea Campos Boralevi, Bentham and the Oppressed, (Berlin and New York: de Gruyter, 1984) at chapter 5 and especially at 99.

national live stock which has no feathers to it and walks with two legs",¹⁰ it does suggest a continuation of the view that the poor was the basis of the nation's wealth, not its poverty. If Bentham was not impressed with Malthus, he did find Smith more convincing, so that he could not ignore the low wage arguments of the economists of the period. The problem therefore became a practical one of providing subsistence for the poor, ensuring security for the social order, and not upsetting the market.

Bentham's theory was built on the old poor law maxim that for those who could work, work was to be provided. This was not (or at least not merely) a moral point, but a practical one as well. Employment was to defray the costs of their care. In Bentham's own system, paupers were not to be released until they had turned a profit for the institution.¹¹ The insane, too, were expected to work.¹² Some scholars have made much of Bentham's opposition to idleness among the poor.¹³ Certainly, there are passages in which Bentham appears extreme in this regard to the modern reader:

Those with no eyes can knit: those who have no feet can work at any sedentary employment. Those who have but one hand can write. Those who have none can carry a message. ... In the pin and other manufactories employment is found for children of four years old.¹⁴

This, too, can be seen as reflecting old poor law roots as much as Benthamite

¹⁰Quoted in Charles Bahmueller, The National Charity Company, (Berkeley: University of California Press, 1981) at 129.

¹¹This provision applied both to able-bodied and sick paupers: Outline of a Work Entitled Pauper Management Improved, in The Works of Jeremy Bentham, ed. J. Bowring, vol. VIII, (London: Tait, 1843) at 370, 383.

¹²v. Bahmueller, The National Charity Company, supra at 143. Bahmueller quotes manuscript U.C. cli 238 from the Bentham Collection at University College London.

¹³Charles Bahmueller, for example, accords it a nearly religious significance in Bentham's thought: The National Charity Company, supra, at 85 ff.

¹⁴"Expedients for Satisfying Indigence" in Essay on Direct Legislation, quoted in Charles Bahmueller, The National Charity Company, supra, at 15.

originality, however. The old poor law held as a tenet that for those who could and would work, work was to be provided. The advent of the eighteenth century workhouse continued that policy, and it would appear from the following comment of Akihito Suzuki that work was to be performed by virtually everyone:

Once workhouses started, the aged, orphans, the lame, the blind, idiots, lunatics, etc., were put together and were set to various kinds of work. Such labour did not require skill nor physical strength, so everyone could do something for the workhouse. In the workhouse of St. Andrew's, Holborn, 'nine old men and women pick ockam [*sic*], four women and boys spin noyl, nine knit noyl yarn into caps, two make the woolen cloathes, to make linel cloaths, two cooks constantly attend the kitchen, two make beds, three nurse those that are sick'. The governor of the workhouse wrote that they employed even an idiot for the task of picking oakum, and they found that even the lame and the blind could pick oakum.¹⁵

By the end of the century, critics including Bentham complained that the poor on relief were "maintained in idleness",¹⁶ but this was not the theory of the old poor law.

It was thus not Bentham's view of poverty or the importance of work which was revolutionary. Those appear to have been drawn from the old poor law. What Bentham offered, typically, was a system, a new national structure for the care of the poor, the National Charity Company. While not adopted without modification by the 1832 commission, it was influential.

The National Charity Company would be a system of self-contained

¹⁵"Lunacy in seventeenth- and eighteenth-century England", part 2, 3 History of Psychiatry (1992) 29 at 43 f. Brackets in original, footnotes omitted. Suzuki's quotation is drawn from An Account of the Work-Houses in Great Britain, in the Year 1732, 3rd ed. (London, 1786) at 7. Suzuki notes that (apart from a child being nursed) it was only the two lunatics in this workhouse that were found by the governor of the workhouse to be completely unable to work.

¹⁶Bentham, Pauper Management Improved, *supra*, at 401.

institutions, initially 250 in number, containing an initial 1/2 million poor people. These numbers were to double in the first twenty years of the scheme.¹⁷ The aim was to provide an environment where everyone would be engaged in productive labour. They were to be constructed according to the panopticon plan, and the principle of less eligibility was to be introduced. The National Charity Company was to be the sole form of poor relief available, and perhaps to meet concerns as to the cost of poor relief, it was at least in its initial formulations to be run as a private company, headed by Bentham himself. State programmes for poor relief would cease.¹⁸

According to Bahmueller, Bentham's claim that the National Charity Company had a charitable purpose was disingenuous.¹⁹ This does not do Bentham justice. There was no doubt that the individual inmate would lose personal liberty as a result of the scheme, but Bentham was not overly sympathetic to such abstract freedoms. He saw the poor as oppressed by a 'tyranny of want', and apparently viewed the loss of this oppression as more significant than the loss of abstract personal freedom.²⁰ Thus he recited a variety of benefits to the paupers, involving health, security, tranquillity and, as important, the comfort of the knowledge of those benefits.²¹

The Benthamite scheme shared various approaches and concerns and approaches with the Malthusian and with other poor law debate of the period. The

¹⁷Pauper Management Improved, *supra*, at 369, 374.

¹⁸Bentham expected the scheme to make him a very rich man. At the end of his life, he allowed that it could equally be run by the state. Campos Boralevi argues that this was as a result of his changing views as to whether an efficient state administration could be established, according to utilitarian principles: Bentham and the Oppressed, *supra*, at 103. It is tempting to speculate that his comments may also have been influenced by the fact that by the time of his "conversion", it was clear he would himself receive no personal gain from the scheme anyway.

¹⁹National Charity Company, *supra*, at 143.

²⁰v. Campos Boralevi, Bentham and the Oppressed, *supra*, at 104.

²¹Pauper Management Improved, *supra*, at 480 ff.

problem of the poor was seen in new terms: it was systemic, national and economic; a problem to which broad theoretical solutions could be and should be applied. Where the intellectual response of laissez-faire economists tended to be towards abolition of the poor law, however, Bentham's system offered a model by which poor relief could be retained, consistent with markets.

Evangelical and Nonconformist Influences

If the new social and economic knowledge of Smith, Malthus and Bentham was one influence on nineteenth century social policy in general and poor law in particular, evangelicalism and Christian nonconformism was certainly another. The evangelical influence can be seen directly: both John Bird Sumner, then Bishop of Chester and later Archbishop of Canterbury, and Charles Blomfield, Bishop of London, were on the 1832 Poor Law Commission. The broader intellectual context included significant influence of Christian nonconformists. This, along with fundamental differences among evangelicals on questions of social policy, make the mapping of Christian influences somewhat complicated.

The revivalist vision did not centre on the mysteries of the Christian faith, but rather on personal responsibility for sin, and the world as a moral testing ground, and redemption by faith in the atonement. Such doctrines were not new in the early nineteenth century; but they were embraced with a new fervour, and they influenced both the evangelical revival in the Church of England, and the nonconformist churches.

While there was unity among evangelicals regarding the theological importance of the atonement, there was a theological split as to what that meant for understanding the world and assessing social policy. At issue was how Providence acted in the world. Those referred to by Boyd Hilton as 'moderates',²² such as the Clapham Sect of William Wilberforce, saw God sending trials, with suffering the predictable result

²²The Age of Atonement, (Oxford: Clarendon, 1988).

of bad behaviour. As Hilton says, "The sequence of sin, suffering, contrition, despair, comfort, and grace ... shows that pain was regarded as an essential part of God's order, and as bound up with the machinery of judgment and conversion."²³ Natural laws were the divine, predictable system of rewards and punishments for good and bad behaviour. Suffering was to teach virtuous conduct for the future, and provide an opportunity to assess ones prior actions.

The Malthusian argument was appealing to these moderate evangelicals; indeed, apart from his nonconformist affiliation, it is possible to see Malthus as an early evangelical of this stripe himself. He was, after all, an ordained Protestant minister, and the principle of population was understood as based in divine law: "Natural and moral evil seem to be the instruments employed by the Deity in admonishing us to avoid any mode of conduct which is not suited to our being, and will consequently injure our happiness."²⁴

While moderate evangelicals might be personally generous to private charities, they did not believe in indiscriminate charity. Alms to the poor would be self-defeating, as the poor would increase procreation, resulting in a fall back to their former level of misery. Charity would be provided only with a moral message. Thus Hilton says of Reverend Thomas Chalmers, who typified this attitude,

The poor wanted 'bread before bibles', but Chalmers believed that bread was impossible without bibles, and if he had seen any conflict between the two, there is no doubt where his priority would have lain: 'I should count the salvation of a single soul of more value than the deliverance of a whole empire from pauperism.'²⁵

²³Age of Atonement, supra, at 11.

²⁴Essay on the Principle of Population, supra, at 208. According to Dean, the religious element warrants an entire chapter of the first (1796) edition of the Essay: Constitution of Poverty, supra, at 88 ff.

²⁵Age of Atonement, supra, at 88.

Pre-millennialist evangelicals, by comparison, thought it presumptuous to expect to understand the divine will by imputing it to the laws of nature. Providence caused pain by direct and miraculous intervention in human lives, and while pain was thus a specific and divine judgment, it was a judgment on individuals' general sinfulness, not on identifiable errors in this life. Acting according to natural laws could not prevent future suffering. In fact, quite the reverse: the natural law was benign. Suffering occurred in the miraculous suspension of natural law. Malthusian ideas were antithetical to this doctrine.

The result was a different attitude to the role of the state. The moderates saw the state as appropriately operating in tandem with natural laws, ensuring the exposure of citizens to the moral right contained in those laws. Pre-millennialists saw instead "a perpetual -- and to mortal eyes arbitrary -- governance, and thought that those whom it had pleased God to place in positions of worldly influence should exercise a similar measure of control over society."²⁶ These pre-millennialists rejected doctrines of political economy and liberal individualism, favouring instead the older vision of the vertical society. They thus favoured a policy of humanitarian paternalism, a policy which, as Hilton points out, was sufficiently high-profile as to have been taken by some historians as synonymous with the term 'evangelicalism'.²⁷ This strand of evangelicalism is particularly significant here, as Lord Shaftesbury, head of the Lunacy Commission was one of its leading proponents.

The evangelicals are examples of extremes. Other Christian influences contained aspects of each, according to their different theologies. Thus Quakers tended to have the humanitarian attitudes of the pre-millennialists, but without their zeal for evangelism. Methodists resembled more the self-help philosophy and the moralizing attitudes of the moderate evangelicals; yet with a social ethic as well. Hierarchical society and obedience to those in authority were important to them, suggesting a consistency with the paternalism of the pre-millennialists, nothing was

²⁶Hilton, Age of Atonement, *supra*, at 16.

²⁷Hilton, Age of Atonement, *supra*, at 95.

to hinder the industrious poor from becoming masters in their own right.²⁸

These religious influences filtered throughout nineteenth century society. The influence of evangelicals on the poor law and lunacy commissions has already been noted. Hilton estimates that in 1850, roughly one in three Anglican clergymen were evangelical²⁹ and the vast majority of nonconformists would have been sympathetic to the basic theology espoused by the movement. There were 112 self-identified evangelicals in parliament between 1784 and 1832.³⁰ In this period, they were mainly moderate evangelicals, with roughly thirty members of Wilberforce's Clapham Sect actually sitting in parliament themselves. From about 1832, pre-millennialist evangelicals start appearing in parliament as well. Evangelicals would also have had a strong influence in local Quarter Sessions as well, since for the first three decades of the century, it was common for Anglican priests to be appointed Justices. The eventual effect in both poor law and lunacy realms is therefore not surprising.

Nineteenth Century Paternalism

The legislative developments of the nineteenth century are sometimes seen as challenging or displacing paternalist ideology.³¹ Certainly paternalist ideology changed as the eighteenth century developed into the nineteenth. New social theories

²⁸v. Gertrude Himmelfarb, The Idea of Poverty, *supra*, at 32 ff.

²⁹Boyd Hilton, Age of Atonement, *supra*, at 26.

³⁰Hilton, Age of Atonement, *supra*, at 205. Hilton cites Ian Bradley, "The Politics of Godliness", D.Phil. Thesis, Oxford, 1974 for this statistic.

³¹See, for example, Dean, Constitution of Poverty, *supra*, at 112; Peter Mandler in Brundage, Eastwood, and Mandler, "The Making of the New Poor Law Redivivus", 117 Past and Present (1987) 137, and 127 Past and Present 183 at 194 ff; Checkland, Introduction to The Poor Law Report of 1834, (Harmondsworth: Penguin, 1974) at 20; Harry Arthurs, Without the Law, (Toronto: University of Toronto Press, 1985) at 118; Esther Moir, The Justice of the Peace, (Harmondsworth: Penguin, 1969) at 135.

and social attitudes had their effect, but as David Roberts has shown,³² paternalism did not die out, particularly outside urban centres. It rather remained a strong and influential intellectual trend.

In Roberts' analysis, paternalism is less a concrete political creed than a general approach, based around four assumptions.³³ First, government was to be authoritarian, but limited by the civil rights of Englishmen. Secondly, and related, society was hierarchical. This was usually seen as a part of the divine creation, thus suggesting a point of contact with some forms of evangelicalism. This relationship of authority and hierarchy was central to the paternalist vision. In Roberts' words, "At the heart of a paternalist's outlook is a strong sense of the value of dependency, a sense that society could not exist without those who are dependent having an unquestioned respect for their betters."³⁴ In this context, the duty of the rulers of society was to rule, to guide, and to help. The rulers were identified generally in terms of property, although by the turn of the century the new factory-owning class was being grudgingly accepted into the vision. "Property has its duties as well as its rights" was a hallmark phrase of paternalism. Thirdly, society was organic, in the Durkheimian sense: to quote the old maxim, the paternalist vision was of "everyone in his place, and a place for everyone." Finally, there was an assumption of pluralism, in the sense that since society was composed of a variety of social spheres, there would be a corresponding variety of hierarchies.

While these assumptions may have been held in common by paternalist, as was the case with evangelicals above, consistency disappears when individual paternalists addressed actual legislation and policy issues. Roberts chronicles the variety of paternalism. Their number included Tories, Whigs and reformers. There were the Cambridge romantics, who "loved the old, the aristocratic and the spiritual and detested the new, the democratic, and the materialistic. They worshipped Wordsworth

³²Paternalism in Early Victorian England, (London: Croom Helm, 1979).

³³v. Roberts, Paternalism in Early Victorian England, *supra*, at 2 ff.

³⁴Paternalism in Early Victorian England, *supra*, at 3.

and despised Bentham."³⁵ There were the Peelites, with their high regard for rights and property, but their belief in laissez-faire economics. There were the country squires, who detested centralized government, and the Whig paternalist such as Lord John Russell and Lord Grey, who favoured it. Benthamites who adopted paternalist ideas applied them abstractly to powers to be exercised by central government; Whigs and Tories tended to view the matter more directly, as justifications for their own personal exercise of power.³⁶ The resulting diversity is referred to by Roberts as a "mosaic of forces",³⁷ a series of shifting alliances and conflicting positions within the movement.

Despite the variety in the movement, there are several themes which, while not shared necessarily by all, tended to be closely associated with paternalist principles. By and large there was a belief in local administration through local élites, particularly Justices, but also factory owners, religious instructors and Anglican priests, and the local gentry. Centralizing legislation was generally combatted. There were exceptions to this, when centralizing legislation was perceived as fulfilling paternalist objectives, as for example with the Lunacy Acts in 1845. Thus Roberts sees paternalism as a force by and large inhibiting the growth of central government in the middle years of the century.³⁸ They were not necessarily opposed to regulation; many had reservations about laissez-faire social policy and economics,³⁹ and in the mid-1840s supported the enactment of the ten-hours acts, mining acts, public health legislation,

³⁵Roberts, Paternalism in Early Victorian England, *supra*, at 214.

³⁶Re Benthamites and Whigs in this regard, v. Anthony Brundage, England's 'Prussian Minister' (London and University Park: Pennsylvania State University Press, 1988) at 15 f.

³⁷Roberts, Paternalism in Early Victorian England, *supra*, at chapter 10.

³⁸Paternalism in Early Victorian England, *supra*, at 206.

³⁹v. Hilton, Age of Atonement, *supra*, at 91 re paternalist backlash against such economic and social policy at the beginning of Victoria's reign. Cf. Peelite paternalist, however, who supported the operation of the market in a relatively laissez-faire fashion and supported the repeal of the Corn Laws.

the Irish Poor Law Act, and improvements in education.⁴⁰ They did have reservations about increased bureaucracy at the central level, however.

The New Poor Law

The advent of the new poor law was not merely occasioned by theoretical transformations. The practical circumstances of the early nineteenth century were central to its creation. The English population had grown roughly from 5.5 million to 8.9 million in the eighteenth century; by 1831, it had reached 13.9 million. The economic forces of the industrial revolution in agriculture resulted in increased mechanization and more economically efficient management of estates, and the country remained more or less self-sufficient in food, but at the cost of increased pauperism. The passing of roughly 4,000 enclosure acts forced the poor off their traditional lands and terminated their traditional rights. The resulting surplus of labour was made worse with the return of soldiers at the end of the Napoleonic wars in 1815. Annual hiring in agriculture gave way to monthly or weekly terms. The result was an increase in pauperism generally, and particularly seasonally.⁴¹ By the beginning of the 1830s, ten per cent of the population was on relief.

The result was civil unrest. Luddites attacked industrial machinery from 1811 to roughly 1816. In 1816-17 and 1819, bad harvests led to strikes. A meeting advocating parliamentary reform was suppressed by the military in 1819, resulting in the Peterloo massacre in which eleven died and 400 were injured. In the early 1830s, there was further rioting in the south by the followers of Captain Swing, and in particular rioting in response to the initial rejection of the first Reform Bill in 1831.

The Whigs had taken political power in 1830, and the revival of the civil

⁴⁰This was during a period of alliance with radicals: v. Roberts, Paternalism in Early Victorian England, *supra*, at 203 f. This alliance was destroyed by the debate surrounding the repeal of the Corn Laws.

⁴¹The able-bodied adult paupers relieved on 1 January of a year might be half as much again as those relieved on 1 July of the same year: see appendix 1.

unrest left them in a quandary. Political opinion ranged from cries for a strengthening of the old poor law, to its outright abolition. It was seen to suppress wages and thus contribute to the problem of poverty it was supposed to solve. The existing civil unrest had shown that failure to reform was not a practical option; yet if reform was essential, it was also perceived as impossible, running the risk of a full-scale jacquerie. The appointment of the 1832 Royal Commission can thus be seen as in part an act of desperation, and in part a political manoeuvre to avoid the appearance of inaction.

The circumstances surrounding the creation of the Royal Commission put a particular direction onto its work. As S.G. and E.O.A. Checkland have said, "The Commissioners were aware that the Government expected them to produce the basis for reform. A kind of teleology would thus operate: the very need for a programme could hardly have failed to affect the writing of the report, giving it greater simplification and directness."⁴² The report was not merely to describe, it was also to convince.⁴³ Civil unrest gave the impression that matters had reached an impasse in the poor law, a matter not down-played by the commissioners themselves.⁴⁴ Nassau Senior, the commissioners' liaison with the government, emphasized the connection between poor relief and social stability in his discussions with the Cabinet.⁴⁵

The commission itself has traditionally been seen as a triumph of Benthamism, although more recently the influence of the evangelical members have been taken more seriously. Peter Mandler has associated the evangelical commissioners with the 'Noetic' movement, composed of followers of Edward Copleston, provost of Oriel

⁴²Introduction to The Poor Law Report of 1834, supra, at 31 f.

⁴³A provocative account of the rhetorical structures used by the 1834 report which made it so convincing is contained in Bryan Green, Knowing the Poor, (London: Routledge, 1983).

⁴⁴v. Bryan Green, Knowing the Poor, supra, at 84; Checkland and Checkland, Introduction to The Poor Law Report of 1834, supra, at 25.

⁴⁵Peter Dunkley, "Whigs and Paupers", 20 Journal of British Studies (1980-1) 124 at 128.

College, Oxford, from 1814 to 1826.⁴⁶ These were 'liberal Tories' who united natural theology and political economy, evangelicals of Malthusian bent, 'moderate' evangelicals, to continue Hilton's terminology. Certainly, there was a strong evangelical component to the commission, including Bishops Blomfield and Sumner, and Rev. Henry Bishop.⁴⁷ There were also Benthamites, of course, in the personages of Walter Coulson and more importantly Edwin Chadwick, who became secretary to the commission in April, 1833, and Senior himself.

The result was a commission not entirely united in its beliefs. Both Nassau Senior and Edwin Chadwick did not accept the Malthusian principle of population on empirical grounds.⁴⁸ There was also no agreement on the broad role of government. The Benthamite utilitarians saw government in terms of the promotion of happiness. The evangelicals instead focused social policy on individual responsibility. Government could not create virtue through the provision of benefits, for such benefits would interfere with the providential system of rewards and punishments and in the end prove an incentive to vice. Virtue was voluntary, a matter of duty and motive, and thus beyond the legislative realm. Governments might only minimize vice, through manipulation of the individuals' instincts for self-preservation. Where the Benthamites favoured the extension of government and the instigation of grand

⁴⁶"Tories and Paupers", 33 The Historical Journal (1990) 81.

⁴⁷Mandler also includes Sturges Bourne and Nassau Senior as part of this cadre. Bourne is associated as he had been the chair of the 1817 Committee on the poor laws, a committee whose report coincided with Noetic thinking on some points. Bourne's inclusion in the Noetic camp is nonetheless somewhat tenuous; Mandler acknowledges that there is no direct evidence of Noetic influence in the 1817 report: "Tories and Paupers", supra, at 92 f. Nassau Senior's inclusion is based on his association with Oriel College in the early 1820s and with Copleston personally: "Tories and Paupers", supra, at 86n and 91n. This too is problematic, as it does not assess the degree of Senior's deviation from the movement upon his conversion to Benthamism. Nonetheless, it would appear that Senior was involved in the appointment of the three firm Noetics, suggesting at the least that he was not opposed to the movement.

⁴⁸v. Himmelfarb, Idea of Poverty, supra, at 156 f.

administrative systems to the public benefit, the tendency of the moderate evangelicals was to be more circumspect of proactive government intervention.

The resulting report focused on the intersection of these views: the principle of less eligibility as applied to the able-bodied pauper. Following Smith, paupers were seen as acting in their own interests, and thus beings which could be made responsible for their choices. The market was the natural law, be it economic or divine, upon which any potentially successful policy had to be built.

It was precisely these precepts which were not met by the old poor law. Outdoor relief in aid of wages was seen as a subsidy to employers, and an interference in the market in labour, raising rates, lowering wages, reducing the respect of labourers for masters, and in fact encouraging rather than reducing pauperism. The result was argued to be an irresponsible attitude on the part of the labourer:

The labourer feels that the existing system, though it generally gives him low wages, always gives him easy work. It gives him also, strange as it may appear, what he values more, a sort of independence. He need not bestir himself to seek work; he need not study to please his master; he need not put any restraint upon his temper; he need not ask relief as a favour. He has all a slave's security for subsistence without his liability for punishment.⁴⁹

What was required, in the commissioners' view, was an alignment between the poor laws and the natural laws of the marketplace.

The poor had to be tied to the independent labour market, to live off their wages. The appeal of this would have differed between the evangelical Malthusians and the Benthamites on the commission. For the Benthamites, the removal of the poor law from the labour market would force wages up to a level where the poor could live off them. The result would have been, as the report proudly predicted, the

⁴⁹The Poor Law Report of 1834, ed. Checkland and Checkland. *supra*, at 132.

"dispauperization" of the country.⁵⁰ The Malthusians would also have been more attracted to the moralizing effect of such a system. Men would be forced to be responsible for themselves, their wives, and their children. And if their wages were insufficient, they would be exposed to the divine punishment of poverty and want. Either way, there was a reversion to the natural order of things. This sense of the commission may be seen in the following extract from the report:

It appears to the pauper that the Government has undertaken to repeal, in his favour, the ordinary laws of nature; to enact that the children shall not suffer for the misconduct of their parents, the wife for that of the husband, or the husband for that of the wife: that no one shall lose the means of comfortable subsistence, whatever be his indolence, prodigality, or vice: in short, that the penalty which, after all, must be paid by some one for idleness and improvidence, is to fall, not on the guilty person or on his family, but on the proprietors of the lands and houses encumbered by his settlement. Can we wonder if the uneducated are seduced into approving a system which aims its allurements at all the weakest parts of our nature -- which offers marriage to the young, security to the anxious, ease to the lazy, and impunity to the profligate?⁵¹

The restoration of this natural order was basic to the report. It was in terms of this rarefied atmosphere where natural laws were left to operate to the benefit of the virtuous and to the desert of the vicious, that the report based its theory. It was in this context that the report's moral categories could be applied to pauperism: the moral, able-bodied poor would be employed to a level of sufficiency, and those not-able-bodied poor were appropriate subjects of relief. It was the able-bodied who were not employed with wages enough for sustenance that the system was concerned with; the issue was how to force them to rely on wages whenever possible.

To ensure that poor relief in the workhouse was not in conflict with the labour market, the principle of less eligibility was imported: the condition of those in the

⁵⁰The Poor Law Report of 1834, ed. Checkland and Checkland, *supra*, at 341 ff.

⁵¹The Poor Law Report of 1834, ed. Checkland and Checkland, *supra*, at 135.

workhouse was to be less desirable than the condition of all labourers outside the workhouse. This principle was common ground to both the Noetic and Benthamite traditions, being included both in Bentham's scheme for pauper management,⁵² and espoused by Copleston in a published letter to Robert Peel in 1819.⁵³ Mandler summarizes:

The Noetics, in short, reached the principle of 'less eligibility' ... also reached by the Benthamites. Whereas the Benthamites began by asking how Poor Relief could be administered without sapping the wages fund, the Noetics began by asking how Poor Relief could be administered without sapping the virtue fund; but the outcome was the same. Unsurprisingly, they came to agree also on the means of maintaining less eligibility: subsistence and hard labour, but labour which did not compete with and reduce the value of privately employed labour, as that reduction, too, would sap the wages and virtue funds.⁵⁴

Thus paupers would be removed entirely from, and would not compete with, the private labour market. Outdoor relief in aid of wages would be prohibited, thus removing direct interference; and no poor person would choose the workhouse if there were an option of wage labour, as the choice of wage labour would be ex hypothesi preferable. And if the workhouse was to be a miserable existence, so it ought to be in the eyes of the Malthusians, who wished to expose the poor to the practical consequences of their actions. The result can be seen as a compromise: the poor law would be maintained; the labour market would become governed by laissez-faire, and Malthusian moral judgment would remain.

The system would be essentially self-administering, providing consistent administration of poor relief throughout the land:

⁵²Pauper Management Improved, supra, at 384.

⁵³Mandler, "Tories and Paupers", supra, at 91.

⁵⁴"Tories and Paupers", supra, at 91.

By the means which we propose, the line between those who do and those who do not need relief is drawn, and drawn perfectly. If the claimant does not comply with the terms on which relief is given to the destitute, he gets nothing; and if he does comply, the compliance proves the truth of the claim -- namely, his destitution. If, then, regulations were established and enforced with the degree of strictness that has been attained in the dispauperized parishes, the workhouse doors might be thrown open to all who would enter them and conform to the regulations.⁵⁵

No appeal mechanisms would be necessary, and no complicated administrative machinery. The fabled "clever pauper", who received outdoor relief from several parishes through administrative oversight, would be stymied, and jobbing by the parish officials would be made significantly more difficult. Administrative discretion which had purportedly allowed parish officials and Justices to corrupt the beneficial purposes of the old Elizabethan statute, would be at an end.⁵⁶

In the tradition of Foucault, Dean argues for a knowledge developing around the pauper:

Nevertheless, the form of knowledge which is appropriate to pauperism cannot be a simple matter of documentation of the particulars of each individual. Each individual must be treated as a case. But in order to effect such a treatment, it is further necessary to bring an exhaustive system of classification to bear on this documentation.⁵⁷

This mistakes the theory and practice of the new poor law. The aim of the new

⁵⁵The Poor Law Report of 1834, ed. Checkland and Checkland, supra, at 378.

⁵⁶Re report's view of discretion by the Justices as leading to a corruption of poor law principles, v. The Poor Law Report of 1834, ed. Checkland and Checkland, supra, at 203 ff.

⁵⁷Constitution of Poverty, supra, at 178. Emphasis in original. Footnote to Foucault omitted.

system was minimal and mechanical administration. The aim reflects more Smith's unseen hand, and the social network of subjects choosing according to their own desires, than the more intensive and continental bureaucracy which Dean's interpretation requires. The causes of pauperism were to be irrelevant, if the pauper was able-bodied. At least for able-bodied men, the objective was not reformation. As Garland says, "Individuals were free to come and go as they chose, the workhouse strove to restructure that choice, not the individual who made it."⁵⁸ The required categorization was minimal-- seven classes, barely enough to ensure that families were divided, and apart from separate classes for infirm men and women, division was by the relatively unindividual characteristic of age. Some workhouses added numerous additional classes, including, importantly for this thesis, separate accommodation for the insane. Few if any records were kept even of who was in these additional classes, however, let alone how the distinctions were made, or the characteristics of the individual which resulted in their categorization.⁵⁹

The commissioners claimed to be reverting to the principles of the Elizabethan legislation, which they claimed had been corrupted through the years. This may have been rhetorically convincing for nineteenth century readers,⁶⁰ but not for twentieth: their system was intended to be fundamentally different in various respects. They claimed that their workhouses were similar to the pre-1834 workhouses, "places where they [the poor] may be set to work according to the spirit and intention of the 43 Elizabeth".⁶¹ In fact the two institutions were to be fundamentally different. The pre-1834 workhouses had not operated expressly on a principle of less eligibility; they were instead to be places where work could be provided for the poor. The post-1834

⁵⁸Punishment and Welfare, (Aldershot: Gower, 1985) at 48. Garland, following Karel Williams, sees this situation as altering in the 1890s.

⁵⁹Asylum case books in Leicester usually included an account of the inmate's history. These accounts were deficient for persons admitted from workhouses, particularly if the person had spent a considerable time in the workhouse prior to the asylum admission. The information was not kept in the workhouse.

⁶⁰v. Green, Knowing the Poor, *supra*, at 30.

⁶¹The Poor Law Report of 1834, ed. Checkland and Checkland, *supra*, at 375.

workhouse was by its nature to be governed by the principle of less eligibility. Their aim was not to provide employment as a form of relief, but rather as a moral rule. The aim was not to provide assistance in plying one's trade, but to turn the tedium of the work into an aspect of the régime of less eligibility. The new poor law would also abolish the old three-fold categorization of the poor. The non-able-bodied would still be considered a separate class, but the distinction relating to the willingness of the pauper to work disappeared: all able-bodied were to be "offered the house". On the one hand, the refusal to work ceased to be criminal, and the eighteenth century distinction between deserving and undeserving poor was abolished, in theory if not in practice. The removal of this distinction did not imply a move away from the consideration of the poor in moral terms. Where the eighteenth century had allowed that some would be unemployed through no fault of their own, the theory of the nineteenth century poor law equated unemployment and the need to seek relief with immorality.

The principle of less eligibility as applied to the able-bodied pauper lay at the intersection of the evangelical and Benthamite views of the commissioners. Outside this area of intersection, the commissioners were highly circumspect. The report said virtually nothing about the non-able-bodied poor. This may be at least in part because the able-bodied were considered of paramount importance. The assistant commissioners had enquired about the care of the non-able-bodied, however, so the exclusion should not be quite so quickly dismissed. It is reasonable to suggest that the commissioners were unable to formulate a coherent and mutually acceptable policy.⁶²

On the one hand, the non-able-bodied were the appropriate objects of charity. At the same time, the reports of the assistant commissioners show some of the moral ambiguity associated with the non-able-bodied poor. Illness, old age and infirmity were matters for which the poor were to plan, and accordingly judgment could not be

⁶²Following Mandler, it might be possible to define the division on the lines of utilitarians versus Noetics: see "Tories and Paupers", *supra*, at 101. Where Mandler is right to see the principle of less eligibility at the intersection of Benthamite and evangelical thought on the commission, it is less obvious that the issues outside this area of intersection divided in such clean lines. This will be discussed in chapter three.

entirely removed from this class.⁶³ Charity should be dispensed only with great care and reserve in such situations. Further wrath was reserved for the families of such persons. The duty of supporting parents and children was performed "even among savages, and almost always so in a nation deserving the name of civilized. We believe that England is the only European country in which it is neglected." They advocated that, where such duties were not observed, "it might be proper to replace them, however imperfectly, by artificial stimulants, and to make fines, distress warrants, or imprisonment act as substitutes for gratitude and love."⁶⁴ The result is ambiguous: feelings were mixed between the realization that the non-able-bodied were unable to support themselves, and a moralizing tendency to view them or their families as responsible for their economic situation.

In the result, the commissioners recommended no change in care. The non-able-bodied were placed outside the labour market structure. In a departure from the Benthamite vision, they were said to have no economic value, for "no use can be made of the labour of the aged and sick", so there was no issue of forcing them to choose a life of virtue and wage labour, and the commissioners found that "even in places distinguished by the most wanton parochial profusion the allowances to the aged and infirm are moderate."⁶⁵

This of course did not mean that the introduction of the new poor law did not effect the care of the non-able-bodied. The failure to prescribe a theoretical approach to the relief of this class instead allowed their care to develop solely within the administrative system. That system was staffed by people working otherwise in the new poor law structure, and influences might reasonably be expected to be found.

⁶³Report of Alfred Powers, Assistant Poor Law Commissioner, contained in Report of Poor Law Commissioners, PP 1834 (44) xxvii 249 at 258; Wood, Poverty and the Workhouse in Victorian Britain, (Stroud: Alan Sutton, 1991) at 45.

⁶⁴Both quotations The Poor Law Report of 1834, eds. Checkland and Checkland, supra, at 115.

⁶⁵Both quotations in The Poor Law Report of 1834, ed. Checkland and Checkland, supra, at 114.

Indeed, the exploration of these influences and the resulting tensions form a considerable part of the following chapters.

The theory of the new poor law was of mixed appeal for paternalist. It is arguable that the statute would force the poor onto the largesse of their employers, thus introducing a new paternalist hierarchy of a type. For the old, landed classes, the result was more ambiguous. The move to a system of unions was a direct challenge to the power of the magistrates,⁶⁶ and their administration of the old poor law was roundly attacked by the commissioners.⁶⁷ Rural Justices continued to sit as ex officio guardians under the new system, but even here their voice was but one in a board of otherwise elected officials. Regarding the administration created by the 1834 act, Mandler is essentially correct when he speaks of "the elimination of magisterial authority."⁶⁸

Local land magnates were able to ensure that they or their tenants were elected guardians in any event. Brundage argues that these strategies were so successful that the new poor law actually enhanced the power of local paternalist.⁶⁹ The local squires were also presented with the possibility of lower rates, agrarian peace, and a systemized control of the poor. The introduction of a central regulatory authority was contrary to most paternalist thought, but most of the actual decision-making remained at the local level.

⁶⁶v. Dunkley, "Whigs and Paupers", supra, at 144. This was particularly significant in the shires, where as late as 1842, the traditionally paternalist squires and aristocracy accounted for over eighty-five per cent of the Justices: Carl Zangerl, "The Social Composition of the County Magistracy in England and Wales, 1831-1887", 9(1) Journal of British Studies (1971) 113 at 115.

⁶⁷The Poor Law Report of 1834, ed. Checkland and Checkland, supra, at 203 ff. and 375 ff.

⁶⁸"The Making of the New Poor Law Redivivus", supra, at 196. But cf. their continued role in the administration of the poor law of lunacy, discussed below.

⁶⁹v. Brundage, "The Making of the New Poor Law Redevivus", supra, at 185.

The new poor law was enacted by the Whig government in 1834, within months of the presentation of the report of the Royal Commission. As Dunkley points out, the logjam had been broken. The Whigs were faced with practical problems of social unrest. They realized that the gross coercion of law could no longer be relied upon to maintain social order. Negotiation with the crowd seemed vested with horrors, and reliance on market forces seemed the best option. They hesitated only when they could not see their way clear to reform. Once the Royal Commission had showed them the way, they hesitated no longer.⁷⁰

The Implementation of the New Poor Law

The early years of the New Poor Law arouse that peculiar fascination which comes with watching an elaborately devised machine fail to start.⁷¹

So M.A. Crowther commences her discussion of the implementation of the 1834 act. On one understanding of the act, the image is apt, for the intention was to introduce a uniform system, a system which would remove administrative discretion at the local level, a system which would lower poor rates and eventually terminate pauperism. The good harvests for the first few years of the new scheme had provided cause for optimism, but the depression of the 1840s had once again sent poor rates and numbers relieved soaring. Not only that, but however popular the act was with Whigs in parliament, it was highly controversial in the country. The Times vehemently opposed the new system for over a decade. Especially in the north of England, riots against the poor law, particularly during a trade depression following 1837, made implementation particularly difficult. Twenty years after the enactment, thirteen unions still had no functioning workhouse, and as late as 1870, somewhere between fifteen and twenty-four per cent of unions still had no workhouse constructed since

⁷⁰v. Dunkley, "Whigs and Paupers", supra, at 148 f.

⁷¹M.A. Crowther, The Workhouse System 1834-1929, (1981; rpt. London: Methuen, 1983) at 30.

1834, and thus intended for the purposes of the 1834 act.⁷² Finding work to be done inside the houses was sometimes a problem. The introduction of the administration could also be slow. Parishes which had united in so-called "Gilbert Unions" under 1782 legislation were not required to enter the new poor law, and in 1847, 1.5 million people remained outside the 1834 act. This number dwindled to 180,000 in 1868.⁷³ And while most re-organization of parishes into unions had been completed by 1837, union boundaries were not finalized in the West Riding of Yorkshire until the 1860s.⁷⁴

The mechanical image is somewhat misleading, however, in that notwithstanding the imagery of the uniform system and the removal of discretion, much decision-making was left at the local level. The central Poor Law Commission could not require the construction of a workhouse, nor even require alterations costing more than fifty pounds to existing facilities.⁷⁵ There was no consistency as to relations between local unions and the commission, nor between local unions as to their application of the law. Whatever the intent of the legislation, discretion had not been removed from local boards of guardians in the granting of relief. By 1837, 350 workhouses had been constructed under the new act, mainly in the south of England.⁷⁶

Whether for reason of lack of space in the workhouse, or for reasons associated with Tory paternalism, outdoor relief to the able-bodied simply did not disappear:

⁷²Karel Williams, From Pauperism to Poverty, (London: Routledge and Kegan Paul, 1981), at 78. Most of the unions without workhouses in 1854 were in Wales. The ambiguity in the number of unions without post-1834 workhouses is the result of two different sources cited by Williams.

⁷³Digby, Nineteenth-Century Poor Law in England and Wales, (London: The Historical Association, 1982) at 22.

⁷⁴Digby, Nineteenth-Century Poor Law in England and Wales, *supra*, at 21.

⁷⁵Poor Law Amendment Act, 4 & 5 Wm. IV, c. 76, ss. 21, 25.

⁷⁶Digby, The Poor Law in Nineteenth-Century England and Wales, *supra*, at 17.

able-bodied adults on outdoor relief always vastly outnumbered those in workhouses.⁷⁷ The result was a continuation of discretion, along lines not dissimilar to the old poor law, as David Roberts points out:

The vestry, the parish overseer, and the local magistrate had managed the old law while the assistant poor-law commissioners, union guardians, magistrates, and union relieving officers administered the new law. Both administrations, Richard Oastler and John Walter II notwithstanding, were but two forms of paternalism. The much abused workhouse, like the dismal and easily forgotten poorhouse of the old law, formed a perfect instrument of paternalism. It combined that mixture of severe discipline and kindly benevolence that was desired in those local spheres where squire and parson thought they could distinguish between the unworthy and worthy poor.⁷⁸

Given the continuation in local discretion, it is not surprising to find variation in practice. Thus Apfel and Dunkley in their study of Bedfordshire find that the workhouse test was applied for two-thirds of the able-bodied poor, with the remaining third mainly widows and deserted wives with dependents.⁷⁹ Anne Digby, by comparison, in her study of Norfolk finds the continuation of outdoor relief, and a scepticism of the workhouse test.⁸⁰ The principle of less eligibility was also inconsistently applied. During a fever epidemic in 1842, the guardians of Ashby-de-la-Zouche Union offered outdoor relief to forty-four workhouse inmates. The epidemic was serious, and five people eventually died. Nonetheless, seven people refused the out-door relief, preferring to stay in the workhouse rather than face life

⁷⁷See appendix I.

⁷⁸Paternalism in Early Victorian England, *supra*, at 208

⁷⁹"English Rural Society and the New Poor Law: Bedfordshire, 1834-47". 10 Social History (1985) 37.

⁸⁰Pauper Palaces, (London: Routledge, 1978), esp. at 100 ff. In her study, out-relief was provided for no less than 83 per cent of able-bodied paupers between the 1850's and 1870's: at 112.

outside it.⁸¹

The implementation of the 1834 act indicates different emphases from the report of the Royal Commission and, to some degree, from the intention of the Poor Law Commissioners appointed after 1834 to oversee the act. The concern of the Royal Commission had been able-bodied adult paupers. While not explicit in the report, it is clear through the implementation of the provisions that the able-bodied pauper was expected to be male. The provision that required entire families to be admitted to the workhouse presupposed that the wife and children would follow the husband. The entire family was accorded the husband's categorization for statistical purposes: if the father was able-bodied, so were his wife and children. As Pat Thane says,

They [the policy-makers of 1834] took for granted the universality of the stable two-parent family, primarily dependent upon the father's wage, and the primacy of the family as a source of welfare. Hence the poverty of women and children was thought to be remediable by the increased earnings of husbands and fathers.⁸²

The woman was expected to conform to this model. As Dean points out, if the husband was to be exposed to the naked power of natural economic law, the wife was to ensure her own protection by reliance on her husband:

If for Blackstone the wife places herself under the 'wing, protection, and cover' of her husband, for Malthus the poor wife must be left exposed if that cover is lifted or is threadbare. The Malthusian prescription for the poor is about allowing those laws of nature to operate which bind the poor man to the yoke of wage-

⁸¹ Ashby-de-la-Zouche minute book, 1834-44, for 9 February 1842, LRO G/1/8a/1. This was not an isolated occurrence. The index to the correspondence of the poor law central authorities shows a peppering of enquiries as to what to do when a pauper refused to leave the workhouse, even though work was available: PRO MH 15.

⁸² "Women and the Poor Law in Victorian and Edwardian England", 6 History Workshop (1978) 29 at 29.

labour and the poor woman to the yoke of conjugal dependence.⁸³

The treatment of women by the new poor law apparently flowed from the moral assessment of the woman in that context. Thus the putative father of an illegitimate child had no obligation to aid in the support of that child until a poor law amending statute of 1844,⁸⁴ and an application for poor relief by a woman with more than one illegitimate child would normally result in admission to the workhouse.⁸⁵ In these situations, the woman would be held responsible. The woman who lost her husband through death or desertion was treated more leniently, through a grant of outdoor relief.

The emphasis placed on male pauperism by the commissioners is not reflected in the statistics of people relieved. Women outnumbered men marginally in the workhouse, and by a considerable margin in the able-bodied category. This cannot be accounted for by the arbitrary categorization of married women, as only a tenth of the women in the workhouse appear to have been married.⁸⁶ Less surprisingly, since the workhouse test was less stringently applied to women, they also represented the bulk of persons on outdoor relief.

Some scholars have speculated that this indicates the imposition of the new poor law with particular rigour on men. Karel Williams is most notable on this point:

In summary, therefore, the poor law relieved negligible numbers of unemployed men outdoors, indoors, or under the exception clauses. In the twenty years after 1834, a

⁸³Constitution of Poverty, *supra*, at 85.

⁸⁴Thane, "Women and the Poor Law in Victorian and Edwardian England", *supra*, at 32.

⁸⁵Wood, Poverty and the Workhouse in Victorian Britain, *supra*, at 99.

⁸⁶*v.* appendix I. The figure refers to the 1850's, where statistics are readily available, if not necessarily reliable: see discussion in appendix I.

line of exclusion was drawn against able-bodied men. Relief to unemployed and underemployed men was effectively abolished and this abolition was not a temporary or local phenomenon; it was national practice for sixty years from 1852 to 1912. This was the brilliant triumph of an official strategy for the repression of able-bodied male pauperism.⁸⁷

This argument is based on the low raw numbers of men relieved, and in that context it does suggest a consistency with the theory of the new poor law. It does not address the economic realities facing women relative to men. With lower incomes, women were likely to be more economically vulnerable, and more easily driven onto the poor law. Conversely, in periods of economic boom, such as the third quarter of the nineteenth century, men might reasonably be expected to share disproportionately in the spoils. It thus seems at least dubious whether the prevalence of women in workhouses and on poor relief generally is a result of differential application of the law between men and women, and a particular targeting of male pauperism.

Whatever the intention of the commissioners may have been, no class of able-bodied were ever the majority of those on poor relief, either inside or outside the workhouse. From the beginning, most workhouse inmates and most people on outdoor relief were classed as "not able-bodied". No guidance was provided on how the distinction between able-bodied and non-able-bodied was to be made, allowing discretion to rest with the local guardians. Between 1849 and 1890, the non-able-bodied ranged from sixty to eighty per cent of those on outdoor relief, and generally constituted more than sixty per cent of those in the workhouse.⁸⁸

Children under sixteen represented roughly forty per cent of those in the workhouse. They were housed apart from their parents, both to add to the ineligibility of the situation for their parents, and to protect them from the evil moral influences of the other, hardened paupers. Here, the Poor Law Commissioners made a real

⁸⁷From Pauperism to Poverty, *supra*, at 73 f.

⁸⁸See appendix 1.

attempt at a proactive solution. Schooling was to be provided for pauper children, and attempts were made to get them apprenticeships. Costs of school teachers were defrayed by the central government starting in the early 1848,⁸⁹ suggesting that the commitment here was a serious one.

Indeed, for the ill and for women as well, the Poor Law Commissioners and their successors, the Poor Law Board were not averse to reformatory action. Thus the commissioners encouraged the formation of friendly societies to protect the poor against unemployment and illness, and they duly reported on the formation of such societies.⁹⁰ Attempts were made to improve medical relief. In this attempt to reduce pauperism beyond disciplining paupers, poor law authorities were also responsible for vaccination, for control of public nuisances, and for various public health measures. Regarding women, the following comment from the 1859 edition of the consolidated rules of the Poor Law Commissioners and Poor Law Board suggests more than a mere judgment of poor women:

Any measures which appear likely to rescue abandoned women from a profligate life, and to hold out to them a prospect of earning an honourable livelihood when they leave the Workhouse, are not only desirable, but are highly to be commended. It has been suggested that with this view the mothers of illegitimate children when in the Workhouse, who are of sufficient capacity and ability, should be trained under the direction of the Medical Officer as sick nurses, and attend upon women in their confinement.⁹¹

It is not clear how widely such redemptive activity was undertaken. The attitudes regarding health and illness, education and apprenticeship of pauper children, and

⁸⁹v. M.A. Crowther, The Workhouse System 1834-1929, *supra*, at 131.

⁹⁰see, for example, Fourth Annual Report of the Poor Law Commissioners, PP 1837-8 [147] xxviii 145.

⁹¹William Cunningham Glen, The Consolidated and other Orders of the Poor Law Commissioners and the Poor Law Board. 4th ed. (London: Butterworths, 1859), at 59.

redemption of fallen women would suggest, however, that the poor law was not merely about forcing paupers to be responsible for themselves. That may have been the primary policing technique, particularly for the able-bodied adult men, but it was not the only one.

The aim of the 1834 legislation had been to create a deterrent workhouse. While the uniformity of administration envisaged by the report did not occur, and notwithstanding conditions in the workhouse being such that few starved, a mythology did develop around the workhouse which itself provided a deterrent. This was no doubt due in part to the language of the 1834 report, since the protests started during the introduction of the law, but the implementation of the act and the development of the nineteenth century vision of the poor also encouraged the creation of this imagery.

The mythology was re-enforced by the way in which the boards of guardians exercised their discretion. This point is made by Peter Wood:

In dealing with the able-bodied the workhouse was invariably offered to those regarded as of bad character, such as aged or diseased prostitutes, ex-criminals, mothers with more than one illegitimate child, known alcoholics and vagrants. In addition the workhouse test was often applied in case of doubt; where it was believed that savings or casual earnings were being concealed, in dubious sickness claims and in the case of deserted wives and their children. It could also be used as a means of putting pressure on relatives to contribute towards the maintenance of an applicant for relief. Where space remained for other able-bodied it was the single of both sexes and widows with one child who were most likely to be offered the house. In practice one of the most feared characteristics of the workhouse was the supposed nature of its inmates. Regarded as a refuge for undesirables, the workhouse gave its inmates a greater stigma than applied to those in receipt of outdoor relief.⁹²

⁹²Poverty and the Workhouse in Victorian Britain, *supra*, at 99.

This continuation of discretion was a mechanism through which nineteenth century paternalist exercised their influence. The punitive nature of the workhouse was common ground between Malthusians, Benthamites and local paternalist, as Anthony Brundage suggests:

Most of them showed [i.e., boards of guardians] neither a reluctance to incur the expense of building workhouses nor an unwillingness to utilize them against selected segments of their able-bodied pauper population. Unregenerate or rebellious workers could expect to taste the full rigor of the new law, while the humble, diligent, and deferential might be favored with a benevolent grant of outdoor relief. The guardians insisted on taking an applicant's character into account in making their decision, whereas Chadwick conceived the workhouse test to be 'self-acting'; that is, it would automatically distinguish between the genuine and the spurious applicant. The former notion, rooted in the traditional paternalist ethos, required a permanent local body vested with wide discretionary power.⁹³

There may have been no agreement as to the universality of the workhouse test, but the image of the punitive workhouse was common to both.

The poor law was thus not a monolith. It was a web of interactions between theories, practices, and mythologies. It is to the understanding of the administration of the poor insane within this context that the next chapter turns.

⁹³England's Prussian Minister, *supra*, at 46.

Chapter 3: Legislative Developments in the Law of Pauper Lunacy

The genius of the 1834 Poor Law report and legislation was its achievement of a coherent approach. A variety of contradictory theoretical perspectives were spliced into a programme essentially consistent with them all, a programme which served as the basis for the discourse surrounding the relief of the poor for the remainder of the century. The report and legislation were a watershed. The abolitionist forces were dissipated. The foundations were laid for a new image of poverty and of paupers, an image centred on individual responsibility and market forces. Whatever the implementation may have been, the policy of less eligibility was manifest both in the language of government policy and in the popular perception of the punitive workhouse. The logjam of poor law reform was broken, and in a remarkably short space of time, a new and powerful orthodoxy of poor relief was born.

The development of the poor law as it related to pauper lunacy lacked such a moment of catharsis. Instead there was a series of acts and official reports, none particularly pivotal or revolutionary in its theoretical outlook. While these reports might sometimes be triggered by scandals in the care of the insane, there was never the immanent threat of broad social upheaval: the care of the insane was never a rioting issue, in the way that poor law was in the Swing Riots of the early 1830s. There were changing political winds with the resurgence of the Tories in 1841, but there was no immediate social or political crisis which required circumvention. There was no fundamental theoretical re-evaluation corresponding to the 1832 Poor Law Commission and broad theoretical issues were unspoken premises.

A brief sketch of the development of legislation may assist at this time. The early legislative development was discussed in the first chapter. By an 1808 statute,

the Justices in Quarter Sessions were empowered to construct asylums for their pauper lunatics, and to charge the costs to the local rates. Consistent with the old poor law, the management of these facilities, including admission and discharge provisions, remained with these local Justices. A series of statutes through 1828 made only minor modifications to this scheme, and notwithstanding the introduction of the new poor law in 1834, the focus on magisterial authority remained throughout the remainder of the nineteenth century.

There was a legislative silence in the realm of pauper lunacy through the 1830s. By the 1840s, the new poor law was in place, and the legislation passed between 1845 and 1870 reflected its presence. While the hierarchy left Justices in charge, an increased administrative role was created for the new professional poor law officers. Again as noted in chapter one, it was the poor law relieving officer who had carriage of the committal application before the Justice. Commencing in 1845, poor law medical officers were to visit quarterly all insane paupers not in county asylums, and a fee of two shillings and sixpence per visit was provided for this task in 1853. The 1853 statute also gave these medical officers the authority to sign the medical certificate which accompanied the committal application, and their involvement in this way quickly became the norm. Legislation in 1862 gave the medical officer of the workhouse the duty to determine whether a lunatic therein was "a proper Person to be kept in a workhouse", and an 1867 poor law statute gave him the power actually to confine the insane pauper in the workhouse. Thus while the mid-century legislation maintained the position of the Justices as established under the old poor law, it also gave the new poor law officials an increasingly influential role in administration.

These foci were essentially local, and the practical decision-making in the poor law of lunacy did remain at the local level. The legislative structures did involve central authorities in the system, however, and as will be discussed below,¹ they were quite active on issues of pauper lunacy. The Poor Law Commissioners were introduced by implication, as they had responsibilities over poor law staff, and

¹v. infra chapter six.

particularly medical staff.² The statutes, however, gave authority to the poor law officers directly, not as agents of the poor law central authority, nor of the boards of guardians. As a result, issues arising from the lunacy statutes formed a site of dispute between the poor law officers, particularly the medical officers, who asserted their independence, and the other poor law authorities, who were endeavouring to enforce the poor law administrative hierarchy.

The Commissioners in Lunacy were given a permanent mandate to inspect asylums and workhouses in 1845, but their legal authority was very limited. While they did have powers relating to transfer of patients between institutions, these did not include transfers from workhouses until 1863.³ From the 1840s, the Commissioners in Lunacy took it upon themselves as part of their inspections to examine committal documents, and demand the discharge of persons with deficient documentation. In 1853, they acquired the power to allow the amendment of such admission documents within fourteen days of the admission,⁴ and in 1862, to clarify an uncertainty as to their powers, they were specifically authorized by statute to order the release of those confined according to incomplete or inadequate documents.⁵ They had the power commencing in 1853 to request the Home Secretary either to enforce the mandatory construction of asylums for jurisdictions that had not complied at that time, or to require enlargement of existing county asylums, although these provisions were used

²Particular hiring criteria were introduced for medical officers by the Poor Law Commissioners, setting minimum professional qualifications and requiring the medical officer to live within his medical district. Involvement of the Poor Law Board became more influential, naturally, after Westminster began to pay half the salaries of medical officers. This system of contributions commenced as early as 1845: Ruth Hodgkinson, *The Origins of the National Health Service*, (London: Wellcome, 1967) at 376. It became more widespread as unions increasingly switched from a fee-for-service, which was not covered by the grants, to the salary model in the early 1850's.

³25 & 26 Vict., c. 111, ss. 31, 32, 33.

⁴16 & 17 Vict., c. 97, s. 87.

⁵25 & 26 Vict., c. 111, s. 27.

only rarely.⁶ Commencing in 1862, they had general authority to stipulate the forms of records which would be kept in the county asylums.⁷ Commencing in 1853, they had specific authority to prosecute violations of the asylum acts,⁸ although fiscal and personnel limitations made this an exceptional course of action. Beyond this, their authority was generally limited to receiving notification of admissions and discharges, inspection and reporting.⁹ Other than persuasion, they had only limited powers to enforce their views on local authorities.

The flurry of legislation in mid-century came to a halt in the mid-1860s. Thereafter, apart from the introduction of the Idiots Act in 1885, there was a legislative silence until the 1889-90 revisions.¹⁰

Legislative Chronology in a Poor Law Context

The legislation of pauper lunacy in the nineteenth century thus fell into three

⁶Thus when the City of London had not made provision for their pauper lunatics by the 1850's, the Commissioners in Lunacy did not litigate, but rather publicised the problem through their annual reports: v. Seventh Annual Report, PP 1852-3 xlix 1 at 10; Ninth Annual Report, PP 1854-5 (240) xvii 533 at 9; Thirteenth Annual Report, PP 1859 2nd sess (204) 529 at 86 ff. The asylum for the City of London eventually opened in March, 1866: v. Twentieth Annual Report of Commissioners in Lunacy, PP 1866 (317) xxxii 1 at 6.

⁷25 & 26 Vict., c. 111, s. 42.

⁸16 & 17 Vict., c. 97, s. 126.

⁹For the powers and involvements of the Lunacy Commissioners relating to county asylums, v. 8 & 9 Vict., c. 126, ss. 46, 47, 55, 56, 73, 75; 16 & 17 Vict., c. 97, ss. 19, 29, 30, 45, 56, 62-64, 66, 77, 82, 87, 89, 91-93., 126; and 25 & 26 Vict., c. 111, ss. 5, 8, 27, 31-33, 36, 37, 40, 42.

¹⁰A minor exception is the Lunacy Laws Amendment Act, 1885, 48 & 49 Vict. c. 52, which gave explicit statutory authority for the temporary admission to workhouses in case of emergency of those lunatics not under proper care and control, pending admission to the asylum. Such emergency removals had long been used to remove dangerous paupers while asylum admission procedures were pursued. The 1885 statute made expressly made this an option for the class noted, who were not necessarily paupers: see chapter five, below.

fairly distinct periods. The first, from roughly 1808 to 1828, occurred before the period under study here. It saw the creation of county asylums and began the articulation of processes for committal to those asylums. The second, from the 1840s to the 1860s, corresponds in large measure to the temporal focus of this dissertation. It saw the county asylum become mandatory in 1845, and the introduction of administrative roles for the Lunacy Commission and the local poor law officers. The legislative directions of the 1845 statute were continued in major legislative initiatives in 1853 and 1862,¹¹ and in a flurry of minor legislation as well. There was then a period of relative legislative calm, until the consolidation of lunacy legislation in 1889-90.¹²

The issues in this section are thus threefold: how to account for the legislative silence prior to 1845; how to account for the flurry of legislative activity from the 1840s to the 1860s; and how to account for the return to legislative silence in the mid-1860s. Essentially, it will be argued that the periods of legislative action and inaction correspond to the practical and political fortunes of the new poor law. In the 1830s, the new poor law was relatively successful at asserting itself politically. It was challenged politically in the 1840s however, resulting in the replacement of the Poor Law Commission, by the less-doctrinaire Poor Law Board at the end of 1847. The hard edges of the poor law were down-played from this time to the late 1860s, when there was something of a poor law revival.

The passage and content of the 1845 act fits this chronology. It presupposed

¹¹Respectively 16 & 17 Vict., c. 97 and 25 & 26 Vict. c. 111.

¹²The relevant legislation for 1889 and 1890 is 52 & 53 Vict., c. 41 and 53 Vict., c. 5. The 1890 statute is historically important, as it survived with modifications until 1959, but its actual modifications of existing law were minimal. Previous to 1890, criminal lunacy, county asylums, private madhouses, and inquisitions in lunacy (i.e., the law relating to Chancery Lunatics) were all under separate and unrelated statutes. The 1890 consolidated these four statutory categories, a matter which is perhaps conceptually significant. Its other major alteration subjected the admission of private patients to the authority of a Justice, and introduced expanded due process safeguards for these private patients. The 1889-90 revisions made minimal difference to the legal situation of pauper lunatics.

a functioning poor law staff which was not established until the 1830s. Its focus on the administrative authority and the discretion of the Justices was out of tune with the legislative themes of the new poor law in the 1830s, and had it been proposed at that time, it might well have looked considerably different. In addition, the new poor law had required unions to construct workhouses, with capital costs which placed considerable financial strain on the poor rates. To require expansion of the county asylum system at the same time would have compounded these financial burdens.

The more interesting question is why county asylums were not incorporated in with the remainder of the poor law during the 1834 revisions. The care of poor lunatics had been surveyed on the questionnaires returned by individual parishes, and had further been considered by the assistant commissioners during their field work. The incorporation of asylums for the pauper insane into the poor law structure remained Poor Law Commission policy into the 1840s.¹³ Apart from the condition that dangerously insane people could not remain in the workhouse for more than fourteen days, however, management of lunatics was conspicuously absent from the 1834 act. Certainly, as discussed in chapter two, the 1834 report had focused on the able-bodied poor; but the resulting legislation, while largely silent on doctrine relating to the non-able-bodied, had nonetheless included their relief in the new system. The county asylum is notable as perhaps the only major institution of the old poor law not incorporated directly under the 1834 scheme.

One reason involves a subtle shift between the 1834 report and the policy regarding its implementation. The 1834 report had expected each union to have a variety of workhouses, organized according to the type of pauper contained:

Each class might thus receive an appropriate treatment;
the old might enjoy their indulgences without torment
from the boisterous; the children be educated, and the

¹³Concrete examinations into the practicability of developing a system of asylums under the jurisdiction of the Poor Law Commissioners continued to at least 1845: v. Nicholas Hervey, "The Lunacy Commission 1845-60", diss., University of Bristol 1987, at 310.

able-bodied subjected to such courses of labour and discipline as will repel the indolent and vicious.¹⁴

The general mixed workhouse which was usually constructed following the 1834 act was not intended by the Royal Commissioners. The 1834 act was ambiguous as to which model was to be followed.¹⁵ The Royal Commissioners saw county asylums as an existing instance of this categorization of paupers between buildings. The above quote from the 1834 report continues as follows:

The principle of separate and appropriate management has been carried into imperfect execution, in the cases of lunatics, by means of lunatic asylums; and we have no doubt, with relation to these objects, the blind and similar cases, it might be carried into more complete execution under extended incorporations acting with the aid of the Central Board.¹⁶

Thus it would appear that the asylum was not incorporated into the 1834 legislation, because it was already an example of what that legislation was attempting to achieve.

This is partially convincing as an explanation of why the 1834 legislation did not go further. It does not explain why admission systems were not further integrated by that legislation, however, nor why the county asylums were not brought under the aegis of the poor law inspectorate. Nor does it explain why attempts were not made to integrate the institutions when the Poor Law Commissioners began to advocate the general mixed workhouse, a transition which began within a year of the introduction

¹⁴The Poor Law Report of 1834. Ed. Checkland and Checkland. (1834: rpt. Harmondsworth: Penguin Books, 1974) at 430.

¹⁵v., e.g., 4 & 5 Wm. IV, c. 76, ss. 23, 25, which refer to unions having "a Workhouse or Workhouses", suggesting that the possibility of categorization of paupers into separate buildings was still to be a possibility under the act. The system of multiple workhouses was advocated briefly following the implementation of the new poor law by the Poor Law Commissioners themselves: v. M.A. Crowther, The Workhouse System 1834-1929, (1981; rpt. London: Methuen, 1983) at 37 ff.

¹⁶The Poor Law Report of 1834. Ed. Checkland and Checkland, supra, at 430.

of the new poor law. Discussion of this is of necessity speculative. M.A. Crowther offers tentative comments regarding the transition in official policy from specialized workhouses to the general mixed workhouse, but she allows that the transition is "still a mystery".¹⁷ She cites the imposing image of the large, forbidding mixed workhouse as a potent symbol of the new poor law, and of greater deterrence value than smaller specialized houses. They would also be easier for the poor law inspectors to visit, entailing a smaller number of sites than a variety of specialized workhouses in each union. This is not of particular assistance in addressing the issue of county asylums. Presumably, expanding the workhouse to include the insane would make it even larger and more forbidding, and thus an even more potent symbol.

There are pragmatic reasons which were consistent with the failure to incorporate asylums into the poor law structure directly after 1834. Unlike the alteration from specialized to mixed workhouses, the inclusion of county asylums after 1834 would have involved legislative amendment. The poor law authorities were frantically busy getting the administration of the existing legislation operational, without embarking on new conquests. To begin with, unions had to be formed and the new administrative structures put into place. Construction of workhouses had to be overseen, as well as the sale or other disposition of existing almshouses and other poor law property in the parishes. Civil disobedience during implementation would have been a further discouragement to pressing for the expansion of the system. On the substantive side, consistent with the 1834 report, the first priority of the Poor Law Commissioners was the re-organization of relief for the able-bodied poor. That occupied their time in the initial years of the poor law.

However they may have approached specialized workhouses in general, the poor law central authorities do not seem to have given up the notion that separate facilities for the pauper insane were desirable. In their instructional letter to the boards of guardians in 1842, they went on to praise the county asylums:

¹⁷The Workhouse System, 1834-1929, *supra*, at 37.

It must, however, be remembered, that with lunatics, the first object is their cure, by means of proper medical treatment. This can only be obtained in a well-regulated asylum; and therefore the detention of any curable lunatic in a workhouse is highly objectionable on the score both of humanity and economy. The Commissioners indeed believe that most of the persons of unsound mind, detained in workhouses, are incurable harmless idiots. But although the detention of persons of this description in a workhouse does not appear to be liable to objection on the ground of illegality or of defective medical treatment, they nevertheless think that the practice is often attended with serious inconveniences, and they are desirous of impressing upon the guardians the necessity of the utmost caution and vigilance in the management of any persons of this class who may be in the workhouse.¹⁸

Further integration of the institutions was thus not desirable for managerial reasons. This view is consistent with a bill in 1839, which would have allowed unions to unite for the purposes of building an asylum.¹⁹ The bill would have brought these asylums under the jurisdiction of the poor law; by its terms, however, the concept of separate facilities for the insane was affirmed.

This does not explain why procedures were not better integrated: why retain the old admission procedures relying on Justices for the asylums, when a new set of admission procedures was created for the other poor law institutions? It may be that this flowed out of the nature of the processes themselves. Admission to the workhouse was not a confinement in the legal sense; the pauper could always elect to leave. Admission to a county asylum involved a civil committal, an action of a more judicial character.

It also seems a reasonable speculation that provision for pauper lunatics caused

¹⁸Eighth Annual Report of the Poor Law Commissioners, PP 1842 [359] xix 1 at 111.

¹⁹see Ruth Hodgkinson, The Origins of the National Health Service, *supra*, at 180.

the Poor Law Commissioners theoretical, as well as practical problems.²⁰ The objective of the new poor law had been a categorical realignment of poor relief, to harmonize moral and economic systems. The moral man was to govern himself so

²⁰In part following Mandler, it was argued in chapter two that the 1834 report focused on the able-bodied poor and less eligibility, as these lay at the intersection of the evangelical and Benthamite thought represented on the commission. Mandler argues that the early implementation of the new poor law pointed up the divisions between these creeds. Essentially, Mandler sees these divisions based in the means rather than the ends of poor relief. Benthamites believed in scientific government:

They defended poor laws in principle, and considered them to be powerful engines of improvement in practice. The permanent Poor Law Commission could be the nucleus of a 'preventive police' whose aim was to scour out evil influences wherever they reared their head. The Union workhouse would be but the first of an array of institutions -- schoolhouses, hospitals, asylums, sanitary boards -- all aiming to make people happy and secure. ["Tories and Paupers", 33 Historical Journal (1990) 81 at 101]

For Noetics, this was "utopian and impious. ... Poor laws were fundamentally wrong, to be rolled back and ultimately abolished.": at 101. Following Mandler, it would be possible to see the failure to include county asylums in the 1834 scheme as the result of these divisions.

Mandler's argument is not convincing, however. While it is helpful to consider the material included in the 1834 report as the intersection of utilitarian and Noetic thought, it does not follow that the issues outside that common ground created clear divisions. Mandler associates the division as being between Chadwick (Benthamite) and the commissioners (Noetic), and he considers that the Noetic vision was eventually successful, under Peel: "Henceforward, the commission (and the Poor Law Board which succeeded it in 1847) was to keep within its proper bounds: deterrence.": at 102. This does not seem to accord with the history of the poor law, however. The support of the commissioners for a separate facility for lunatics has already been noted, in the passage from their 1842 directive to the boards of guardians. It will further be argued below that the 1840s instead represented a softening of the hard edges of the poor law, with for example elderly married couples being permitted to co-habit in the workhouse, and an increased role for the workhouse as a place of care. The 1840s signalled the introduction of precisely the sorts of programme which would have been antithetical to Mandler's noetics: poor law infirmaries, with trained staff funded in part from Westminster; poor law schools with central funding provided for teachers; emigration programmes; and of course developments in the poor law of lunacy provide particularly clear examples. Mandler's argument thus appears at best much too simplistic.

that he, his wife and his family could be supported on his income. The need to resort to relief was thus a result either of immorality, in which case the workhouse would be offered, or of not being able-bodied, in which case out-door relief would be offered. While the pauper insane were clearly a part of the poor law, they did not fit this schema. The poor law theory pre-supposed rational, choosing paupers, able to select courses of action for their benefit, and thus liable to moral censure when they required relief. This assumption of rationality could not obviously be applied to the insane, at least when they were insane, and thus the argument for moral censure was undercut. Yet many were believed to have become insane because of excessive alcohol consumption, or because of immoderate and sinful lives prior to becoming insane. For these, moral judgment seemed more appropriate. The insane were morally ambiguous in the poor law taxonomy.

If considered moral, the appropriate choice under the principles of the new poor law would presumably be a grant of out-door relief. This option might well prove impractical for the lunatic pauper, however, who might be unable to survive outside an institution. If considered immoral, the workhouse should logically have been offered. This too led to a theoretical problem. The workhouse was to be a deterrent, and to operate by structuring the choice of the immoral pauper, forcing by economic mechanisms a return to the moral life of wage labour. Yet the return to normal life of the lunatic pauper, if such return were possible at all, was not by structuring the individual's choice, for the individual was ex hypothesi insane and thus incapable of making the rational choice. Instead, the return would be affected by the redemptive power of the care provided in the institution. It was what the institution had to offer, in the form of "cure", which would restore the pauper to a productive life, not the institution as merely serving as a less desirable alternative to a different life.

The insane did not fit the taxonomy which was the basis of the new poor law. Bryan Green has argued that the taxonomy of the new poor law could not

accommodate the concept of a rehabilitative institution,²¹ and his argument is not without merit. The case of the insane is more complex. It was not merely that they were problematic because some (but by no means all) might be cured, but also that they did not clearly divide into the moral and the immoral, or the able-bodied and not-able-bodied. They were, in a sense, a counter-example to the new poor law taxonomy. The strength of the new poor law was its articulation of a strong theory; pauper lunacy ran counter to that theory. Following Green, it is arguable that the administrative issues remained unaddressed, because they could not easily be articulated in the poor law taxonomy.²²

As the 1830s drew to a close, so did the administration of the Whigs. As David Roberts says,

The English electorate in the summer of 1841 was in a Tory mood. A decade of innovations had exhausted the popularity of the Whigs. Chartism had been suppressed. Europe lay quiet. The Reform Act had not ruined England. Church reform allayed the louder cries of dissent. And Sir Robert Peel's Tory government had a majority of seventy-six in the House of Commons.²³

This change in political mood was co-incident with challenges to the new poor law. As noted in chapter two, the new poor law had been highly controversial in its implementation. There had been riots, particularly in the north of England during its

²¹Bryan Green, Knowing the Poor, (London: Routledge, 1983) at 122 ff, and particularly at 124.

²²Green's work is a textual analysis of the 1834 report, and his focus on that single text creates a sense of dialectical certainty which does not combine easily with a more historical approach, based on a variety of sources. The point here (and I think in Green's work as well) is not that matters such as lunacy were intentionally excluded by the Poor Law Commissioners because they realized it undercut their administrative structure. It is rather that since lunacy could not be easily formulated in the terms of the poor law theory, it was excluded because the Commissioners could not articulate a consistent policy.

²³Paternalism in Early Victorian England, (London: Croom Helm, 1979), at 64.

early implementation in the 1830s. During the trade depression of the early 1840s, the discontent spread, and the riots spread to include the midlands and Wales. At least one assistant poor law commissioner was dismissed as a result.²⁴ The Andover scandal eventually forced the replacement of the Poor Law Commissioners at the end of 1847.

This period corresponded with what David Roberts refers to as the "apogee of paternalism".²⁵ In 1844, the new poor law was fiercely attacked by romantic paternalists and country squires, as not truly protecting the poor.²⁶ Roberts further argues however that the poor law was a difficult issue for paternalists:

The New Poor Law presented an ambiguous issue to all paternalists. The law did weaken the prerogatives of locality, but it also defended property from exorbitant rates and systematized the landed classes' control of the poor. ... The paternalist mentality of the country squire was a curious mixture of prejudice, self-interest, local loyalties, and benevolence. They hated the new and the alien, they liked secure rents and low rates, they were jealous of their local prerogatives, and they wanted their own elderly married couples, when in the workhouse, to live together.²⁷

The result was thus not an abolition of the new poor law, but a softening of its hardest edges. Thus under the Tory government, the Poor Law Board, who replaced the Poor Law Commissioners, was viewed as conciliatory in their administrative style, and elderly married couples were permitted to live together when in the workhouse.

In this political climate, it is surprising neither that the government turned to

²⁴v. Peter Wood, Poverty and the Workhouse in Victorian Britain, (Stroud: Alan Sutton, 1991) at 81, and Crowther, The Workhouse System, 1834-1929, supra, at 39.

²⁵Paternalism in Early Victorian England, supra, at 244.

²⁶Roberts, Paternalism in Early Victorian England, supra, at 245.

²⁷Paternalism in Early Victorian England, supra, at 258 f.

consideration of the law of lunacy in 1842, nor that the Poor Law Commissioners were not to be the investigating body. Instead, the Metropolitan Commissioners in Lunacy were given this investigative function. The Metropolitan Commissioners were a mixed bunch, but a group which would have been attractive to the political climate of the day. They included not merely barristers and medical men, but also Members of Parliament and Justices of the Peace.²⁸ There was humanitarian, pre-millennialist evangelical membership, including Lord Ashley, the chair. The commissioners had been constituted by 1828 legislation regulating private madhouses,²⁹ with jurisdiction to licence and inspect these private madhouses in the London area. The 1828 statute gave them no authority to inspect county asylums or workhouses.

The inspection of county asylums was not to be the sole focus of the 1842 investigation. Much of the commissioners' 1842 mandate still concerned private madhouses throughout the nation, which they were also to inspect. Consistent with the prevailing political winds regarding care of the poor, however, county asylums were central to the eventual report. And notwithstanding that the commissioners had no mandate to visit and report on workhouse care of the insane, they took it upon themselves to visit workhouses when it was convenient for them to do so.³⁰ The result, submitted in 1844, was a report much more focused on the care of the insane under the poor law than may have been the intent of the government.

²⁸In the late 1830's there had been as many as six Justices serving as Commissioners, about a third of the total number of Commissioners: Nicholas Hervey, "The Lunacy Commission, 1845-60", *supra*, at 74. While this number decreased in the first few years of the 1840's to two by 1845, the prominence in the late 1830's suggests a sympathy with the Tory paternalist viewpoint.

²⁹9 Geo. IV, c. 41.

³⁰The mandate of the Commissioners was established by statute: 5 & 6 Vict., c. 87. They were to visit madhouses outside the London area twice annually. Their mandate included reporting on conditions in those houses as well as the liberation of persons improperly confined: ss. 7-19. They were to visit county asylums annually and report on conditions therein, but for county asylums they were given no liberation powers: ss. 30-36. Regarding their visits to workhouses as without statutory authority, see also Report of the Metropolitan Commissioners in Lunacy to the Lord Chancellor, (London: Bradbury and Evans, 1844) at 4. (This is a re-printing of PP [HL] 1844 xxvi 1.)

Unlike the report of the Poor Law Commissioners a decade earlier, the report of the Lunacy Commissioners was not an expressly visionary document. It was concerned instead with practical issues such as fireproofing of asylums and desirable locations. There was some discussion of classification of lunatics and condition of paupers on admission, but only in the context of concern that they be admitted quickly to the asylum, when the chances of cure were believed to be greatest. The treatment offered, and particularly the desirability of minimizing physical restraint of inmates were also debated, not from the perspective of the theory of "moral management" (although humanitarianism was raised), but rather from the perspective of the pragmatics of kind patient care and administrative peace. The foundations of moral management may have been in the belief that the insane might be influenced through their understanding, and "by this means the spark of reason will be cherished",³¹ but this style of argument was generally absent from the 1844 report. The social organization of the institution, essential to the early conceptions of moral management, were largely not discussed. Where the 1834 poor law report had drawn a bold theoretical picture, the Metropolitan Commissioners' report a decade later was dry, atheoretical and mechanical.

New legislation followed in 1845. As has been seen, its content was consistent with the Tory paternalism of the 1840s. County asylums were not placed under the jurisdiction of the Poor Law Commission, and the authority of local Justices was maintained. The introduction of the national Lunacy Commission as a central inspectorate was accepted because of the view of pauper lunatics as a group requiring particularly strong protection.³² The system could not do without the involvement of the poor law staff at the local level, but this authority was subject to the supervision of the Justices.

The enactment of the 1845 act can be seen as an implied challenge to the new

³¹Samuel Tuke (1811), cited in Anne Digby, Madness, Morality and Medicine, (Cambridge: Cambridge University Press, 1985) at 29.

³²David Roberts, Paternalism in Early Victorian England, supra, at 205.

poor law. Notwithstanding the interest of the poor law central authorities in developing an asylum system, they were essentially excluded, in favour of a plan administered by local Justices of the Peace. Where the new poor law had restricted the authority of the Justice in favour of elected boards of guardians, the 1845 act perpetuated county asylums as a magisterial fiefdom. Where the 1845 act had initially limited magisterial discretion in the committal decision, such discretion was expressly restored by 1846 legislation,³³ a statute which regarding asylums gave the magistrates the same sort of paternalist authority they had possessed under the old poor law.

What is surprising, therefore, is not that the 1845 legislation was passed; it is rather that the basic legislative system did not change during the near un-interrupted years of Whig administration, from 1852 to 1874.³⁴ This can partly be explained by historical accident. The major legislative initiatives were promoted chiefly by Lord Ashley (from 1851 the seventh Earl of Shaftesbury). He was a Tory of some note himself, but a Tory with impeccable Whig connections: he was son-in-law of Viscount Palmerston.³⁵ Thus Ashley had contacts, whatever administration was in power. More fundamentally, issues of public policing did not create a neat split between Whigs and Tories. They were allied, for example, in the legislation allowing creation of local police forces in the provinces, in the late 1830s.³⁶ In addition, the Poor Law Board adopted a lower profile than its predecessor, and was apparently

³³8 & 9 Vict., c. 84. See further discussion below.

³⁴The only breaks to this line of Whig administrations were a brief and unstable alliance formed under the 14th Earl of Derby, from February 1858 to June 1859, and brief ministries under Derby (June 1866 to February 1868) and under Disraeli to December 1868.

³⁵Actually, step-son-in-law, although it has been claimed that his wife actually was the natural daughter of Palmerston: Geoffrey Finlayson, The Seventh Earl of Shaftesbury, (London: Eyre Methuen, 1981) at 43. Palmerston was Home Secretary from 1852 to 1855, and thus at the time of the passage of the 1853 revisions to the lunacy statutes. With the exception of the brief Derby administration, he was Prime Minister, from 1855 to 1865, and so for the passage of the 1862 act.

³⁶Anthony Brundage, England's "Prussian Minister", (London and University Park: Pennsylvania State University Press, 1988) at 62.

content to co-exist within the system. Finally, the county asylum system was already entrenched by the 1850s, based on the county or borough as the administrative unit. Any attempt to move to a system based on combinations of unions would have been fraught with administrative difficulties.

As the advent of the period of legislative activity regarding the poor law of lunacy in the 1840s corresponded with the retreat from the hard edges of the new poor law, the termination of this legislative activity roughly corresponded to the return of political focus to the poor law. This was reflected administratively in the replacement of the Poor Law Board with the Local Government Board in 1871. Where the Poor Law Board had been conciliatory, the Local Government Board has been seen, at least initially, as re-affirmed the paramountcy of deterrence. The result was a prolonged ideological attack on outdoor relief. For the first time, the workhouse test was applied to single women in a systematic way, and the number of able-bodied women on outdoor relief dropped from 166,407 in 1871 to 55,036 in 1891.³⁷ Where outdoor relief had constituted more than half of poor law expenditures in the 1860s, it fell to thirty-five per cent in the second half of the 1870s.³⁸

It is misleading in the context of this dissertation to consider this alteration as simply a return to the "principles of 1834". Certainly there was a reduction in the numbers on outdoor relief, but the numbers of able-bodied poor relieved in the workhouse similarly declined. The result of the policies of the 1870s was a reduction in the total number of able-bodied relieved from 410,811 on 1 January 1869, to 280,348 on 1 January 1879, and a reduction in the number relieved in the workhouse in the same period from 29,826 to 22,650.³⁹ The proportion of able-bodied relieved

³⁷1869 figure from Ninth Annual Report of the Local Government Board, PP 1880 xxvi 1 at appendix (D) no. 7; 1879 figure from Twentieth Annual Report of the Local Government Board, PP 1890-1 [6460] xxxiii 1 at appendix (E).

³⁸Peter Wood, Poverty and the Workhouse in Victorian Britain, *supra*, at 148.

³⁹Figures in this paragraph drawn from appendix D, No. 71 to Ninth Annual Report of the Local Government Board, PP 1880 xxvi 1 at 356 f. The 1879 figure was an increase from mid-decade: indoor relief to able-bodied adults had fallen to

in the workhouse, however, remained almost constant in this period, being 7.3 per cent in 1869 and 8.1 per cent a decade later. The tightening of relief in this period is the more startling, as the so-called "Great Depression" of 1873 to 1896 presumably significantly increased need. Insofar as implementation is a guide to policy, therefore, the issue was not so much a return to the workhouse test for the able-bodied, as restricting availability of relief the able-bodied across the board. At the same time, there appears to have been a movement to place the able-bodied under the care of private charities.⁴⁰ While it is not possible to tell whether or how much charity increased after 1870 to care for those removed from poor relief, it does appear that the poor law central authorities supported and encouraged this increased role for private charity,⁴¹ and consideration of the reduction in poor relief in this period must take that into account.⁴²

14,064 in 1875.

⁴⁰Private charity had of course always been active in the relief of the poor. While figures are bound to be unreliable as there was no systematic collection mechanism for them at this time, David Owen claims that in the 1860s, charitable donations in London totalled between £ 5.5 and £7 million annually: English Philanthropy 1660-1960, (Cambridge: Harvard University Press, 1964) at 218. This was roughly equivalent to the amount expended for the relief of the poor by the poor law, for all of England and Wales: v. Twentieth Annual Report of Local Government Board, PP 1890-91 [6460] xxxiii 1 at appendix (F) no. 119.

⁴¹v. Owen, English Philanthropy, 1660-1960, *supra*, at 221 f.; Norman McCord, "The Poor Law and Philanthropy", in Derek Fraser, ed., The New Poor Law in the Nineteenth Century, (London: Macmillan, 1976) 87 at 101 f.; Judith Fido, "The Charity Organisation Society and Social Casework in London 1869-1900", in A.P. Donajrodzki, ed., Social Control i Nineteenth Century Britain, (London: Croom Helm, 1977) 207.

⁴²This bears some similarity to Williams' argument, alluded to in chapter 2, above; v. Karel Williams, From Pauperism to Poverty, (London: Routledge and Kegan Paul, 1981) at 73 f. Williams argues for a drastic restriction to outdoor relief for able-bodied men extending throughout the second half of the nineteenth century, based on the raw numbers of people relieved. Whatever the strength of this argument for the relatively long period he argues for, the raw numbers in the 1870's relating to the able-bodied do suggest a significantly higher eligibility requirement for the grant of relief. This cannot be seen as directed primarily against men, however. Women in fact were hit somewhat harder than men: the number of able-bodied women relieved dropped thirty-five per cent from 1 January 1869 to 1 January 1879, as compared to twenty-eight per cent for men. Non-able-bodied women relieved fell twenty-one per

The new régime had a very different effect on the non-able-bodied poor. In the same period, the number in this class dropped only from 434,476 to 349,629, a drop of only twenty per cent, compared to thirty-two per cent in the able-bodied class. While non-able bodied on outdoor relief dropped from 370,130 to 266,317, a drop of twenty-eight per cent, non-able-bodied in the workhouse actually increased considerably, from 64,346 to 83,312, a rise of twenty-nine per cent.

As Hodgkinson notes, the workhouse system had itself begun to recognize accommodation of the non-able-bodied poor as an explicit part of its role:

Also, the gradual realization of the importance of institutional treatment for the sick led to a decline in the provision of domiciliary attendance. Therefore the workhouses assumed more and more the role of hospitals. The chief concern of the Poor Law administration in 1834 was the able-bodied labourer; by 1871 this administration had developed into the State medical authority for the poor.⁴³

Consistent with this shift had been the construction of new and specialized facilities for the non-able-bodied poor, and the introduction of professional attendant care, commencing in the 1860s on a fairly major scale. In 1849, there had been 171 professional nurses in workhouses; by 1872, there were 1406, and by 1906, 6094.⁴⁴

Where the "principles of 1834" had directed workhouses particularly at the able-bodied poor, the poor law of the late 1860s and the 1870s saw workhouse care increasingly in terms of the pauper who could not survive alone.

Outside London, the diversification and professionalization of the poor law institutions in the 1860s occurred at the encouragement of the Poor Law Board, but

cent due to the decrease in outdoor relief, whereas numbers of non-able-bodied men relieved fell only fourteen per cent.

⁴³The Origins of the National Health Service, *supra*, at 269. Emphasis in original.

⁴⁴M.A. Crowther, The Workhouse System 1834-1929, *supra*, at 136.

apparently within the structures of the existing poor law. In London, the process was assisted by the passage of the Metropolitan Poor Act, 1867.⁴⁵ This act is reminiscent of the unsuccessful 1839 bill, in that it allowed unions in the London area to combine for purposes of building asylums for the insane paupers and hospitals for ill paupers, under the authority of the Poor Law Board.⁴⁶ Two such poor law asylums were constructed immediately, and within two years of their opening in 1870, they together contained over 3,000 paupers.⁴⁷

The statistics relating to pauper lunatics are more complex, as county asylums must be taken into consideration, but they do generally mirror the situation with other non-able-bodied poor. Thus outdoor relief to the insane dropped from 6,987 on 1 January 1869 to 6,230 a decade later, a comparatively modest drop of eleven per cent, but a reduction nonetheless. Insane paupers in workhouses rose from 11,181 to 16,005 in this period (forty-three per cent), a somewhat faster rise than for class of non-able-bodied poor. The total pauper insane in all types of institution rose from 40,015 to 55,877, a rise of forty per cent.⁴⁸

⁴⁵30 Vict., c. 6.

⁴⁶30 Vict., c. 6, ss. 5-6. The act also established the Metropolitan Poor Fund, a common fund for the metropolis for most poor law expenses, including expenses of maintaining lunatics in county asylums: ss. 61, 69. This removed the worst of the inequities in funding of poor law in London, and made the construction of poor law facilities a practical possibility for the poorer unions, particularly in the east end of the city.

⁴⁷The statistics of the Commissioners in Lunacy show that 3209 pauper lunatics were contained in these institutions by 1 January 1872: Thirty-Sixth Report of the Commissioners in Lunacy, PP 1882 (357) xxxii 1 at 6 ff.

⁴⁸Figures regarding the pauper insane are taken from the Thirty-Sixth Annual Report of the Commissioners in Lunacy, PP 1882 (357) xxxvi 1 at 6 ff. These statistics, unlike those relating to able-bodied and non-able-bodied poor, include children, however the number of children appears to have been minimal. In the period at issue, county asylum admissions rose from 26,642 to 38,395 paupers (forty-five per cent increase). Pauper insane contained in all other facilities (i.e., licensed madhouses, registered hospitals, Broadmoor, etc) fell from 2,103 to 1,477 (thirty per cent): appendix D, No. 71 to Ninth Annual Report of the Local Government Board, PP 1880 xxvi 1 at 356 f. These latter figures include adults only.

The legislative initiatives of the late 1860s can be seen as consistent with this new emphasis on the workhouse as a place of care. The 1867 legislation allowing the construction of poor law asylums mentioned above is an obvious example of a legislative emphasis shifting from the asylum administration, back to the workhouse. Consistent with this trend was the grant of detention powers to workhouses, also in 1867.⁴⁹ Equally telling is the absence of significant legislative reform to county asylum legislation until the end of the 1880s. The county asylum system was not attacked by legislation, but in a time of emphasis on workhouse care, nor was it given legislative extension.

The legislation of the poor law of lunacy thus followed the trends in other poor law legislation. Legislation supporting the county asylum structure was passed when the poor law was in disfavour; when the trend was to a stronger workhouse system, however, legislation over county lunatic asylums was conspicuously absent from the statute books.

Models of Administration in Asylum Admissions

The asylum statutes can be understood as both protecting the jurisdiction of magistrates and consolidating the new poor law administration. Within this division of power, the asylum legislation established two essentially inconsistent models regarding the admission of paupers to the asylum. The first of these envisaged a local bureaucracy of professional poor law officers and Justices of the Peace sending all pauper lunatics to the new county asylums. While this was not a "self-acting" system, as the new poor law was intended by the 1832 commission to be, it was as close as the lunacy system could come: removal of the insane pauper was to be automatic. The second model again relied on these local authorities, but acknowledged a

⁴⁹v. 30 & 31 Vict., c. 106, s. 22. Previous to this time, the insane could be allowed to remain in workhouses if (in compliance with the 1834 poor law statute) they were not dangerous, and if (after 1862, in compliance with the statutory reforms to the county asylum legislation) they were appropriately certified by the medical officer. These had not allowed actual detention of an individual who wished to leave, however: that step was taken by the above 1867 legislation.

considerable administrative discretion throughout the process. As with the new poor law as actually implemented, this imported an element of paternalism. The articulation of these models will facilitate discussion of the relationships between the various groups involved in lunacy administration.

County asylums became mandatory in 1845, and mechanisms for locating, monitoring, and confining pauper lunatics became increasingly refined. When a union medical officer became aware of a pauper lunatic as defined by the statute, he was within three days to notify the relieving officer, who was in turn within three days to bring the individual before a Justice. Medical certificates were obtained, and the justice then had the power to confine the individual in an asylum. Constables similarly had a duty to bring lunatics found wandering to the notice of the relieving officer, thus triggering a committal application. The 1845 act made these provisions mandatory, in law if not in practice: failure to notify the relieving officer, or failure of the relieving officer to bring the individual before a Justice, made the constable, medical officer, or relieving officer liable to a fine of up to ten pounds per case.⁵⁰

Under the 1845 act, the Commissioners in Lunacy and the Poor Law Commissioners were united in their view that the Justices had no discretion in their decision as to whether a committal was to occur: given the appropriate completion of forms by the relieving officer and the medical man, committal was to occur in a county asylum, if there were space, otherwise in a licensed madhouse.⁵¹

These provisions were buttressed with a set of procedures to ensure that all pauper lunatics were drawn to the attention of Justices. The quarterly visits of pauper lunatics outside asylums by poor law medical officers has already been noted. In

⁵⁰8 & 9 Vict., c. 126, s. 50; 16 & 17 Vict., c. 97, s. 70.

⁵¹v., e.g., Thirteenth Annual Report of the Poor Law Commissioners, PP 1847 [816] xviii 1 at 21; and William Golden Lumley, The New Lunacy Acts, (London: Shaw, 1845) at xii, 160, 163. This appears to be a defensible interpretation of the statute, the relevant portion of which reads that "if ... such Justice shall be satisfied that such Person is lunatic ... such Justice shall, by an Order under his Hand ... direct such Person to be received into the Asylum": 8 & 9 Vict. c. 126, s. 48, emphasis added.

addition, workhouse rules required the medical officer to examine all paupers upon admission for signs of physical or mental disease.⁵²

These procedures represented a remarkable change from the processes and attitudes of the old poor law. Under the 1828 act, while the parish overseer of the poor had been responsible for the leg work of the application, the Justices were involved throughout the process and the overseer acted under the Justice's direction.⁵³ The system in 1828 had been the result of a slow progression, which made concessions to increasing formality, but only insofar as it remained consistent with the discretion of the Justices. The 1808 act provided that admission to county asylums was to be by warrant of the Justices.⁵⁴ An 1811 statute made it clear that the Justices could refuse to commit a pauper lunatic if the lunatic were not dangerous, re-enforcing that discretion.⁵⁵ In 1815, the Justices were given authority to order lists of insane people to be compiled by the parish overseer, accompanied by a certificate from a medical practitioner as to the "state and condition" of the "lunatic or dangerous idiot", but once again, this was a discretionary power of the Justice.⁵⁶ These procedures were consolidated in the 1828 act.⁵⁷

The 1845 and subsequent legislation focused the administration instead on the poor law staff directly. Justices continued to administer the asylums, and they did have the power to commence the committal processes when knowledge reached them through channels other than the poor law staff. In the usual case, however, they became involved in the admission processes only at the point where the order for

⁵²v. William Golden Lumley, Manuals of the Duties of Poor Law Officers: Medical Officer, (London: Knight, 1849).

⁵³see for example 9 Geo. IV, c. 40, s. 38.

⁵⁴48 Geo. III, c. 96, s. 17.

⁵⁵51 Geo. III, c. 79, s. 1.

⁵⁶55 Geo III, c. 46, s. 8.

⁵⁷9 Geo. IV, c. 40, ss. 36, 38.

admission was to be signed; the poor law staff themselves administered the acts up to that point. These changes reflected the new administrative structures and functioning of the new poor law. The old poor law had relied upon volunteer parish appointees for administration of relief. The result was administration with varying degrees of competence and enthusiasm, creating the need for supervision by the Justices. The provision of a professional staff employed to administer the new poor law regularized administration, reducing the need for this supervision. Whether the statute recognized the status quo of relations between poor law staff and the Justices in 1845, or whether it represented a departure from the status quo and awarded new powers to the poor law staff which they then went on to use, probably depended on the particular unions and the individuals involved. What is relevant for the discussion here is the increasing reliance of the system on professional administration of the new poor law, away from the involvement of the Justices.

The 1845 processes also reflected a new view of the state's role as regards to pauper lunacy. This can be seen by juxtaposing the mid-nineteenth century law with the situation a century earlier. Roy Porter comments on the narrow scope of the 1744 act which allowed committal of the insane poor:

It made clear that madness was to fall under the magistrates' gaze as part of the control of the vagrant poor. Yet the lunatic was to be a problem only if 'dangerous', and dangerous lunacy was expected to be sufficiently visible to be decided by JPs not physicians. Such nuisances could be confined in whatever secure place was available, be it workhouse, lock-up, private madhouse, bridewell or gaol.⁵⁸

⁵⁸Mind-Forg'd Manacles. (London: Athlone, 1987; rpt. Harmondsworth: Penguin, 1990), at 118. Re reluctance to place individuals in institutions in this period, see also Peter Rushton, "Lunatics and Idiots", 32 Medical History (1988) 34; Akihito Suzuki, "Lunacy in seventeenth- and eighteenth-century England ... Part I", 2 History of Psychiatry (1991) 437 at 452 for confinement of the dangerously insane in "strong huts" into the early seventeenth century, and more generally "Lunacy in seventeenth- and eighteenth-century England ... Part II", 3 History of Psychiatry (1992) 29 regarding Bethlam and houses of correction. Suzuki also argues that cure could be a factor in sending a pauper to a private madhouse, however [part I at 453

The mid-nineteenth century legislative vision entailed the systematic surveillance of the mad, a system designed to ensure that all those that came within the purview of the statute would be watched, documented, and where appropriate, confined. The image is of the poor law officers combing the shires in search of lunatics. The vision is less reminiscent of the haphazard administration of the old poor law, and more similar to Bentham's plans for admission to the panopticon.⁵⁹

The administration of the poor law of lunacy can also be juxtaposed to the administration of relief to the able-bodied in the workhouse. Both were intended as comprehensive in their respective spheres. The broader poor law was to be self-administering, however: the workhouse test was to ensure that only those in need of relief would apply, and the relief to be offered would automatically be the workhouse. By comparison, the poor law of lunacy placed increasing reliance on the poor law staff to identify lunatics, and to bring them into the system. While the comprehensiveness of the lunacy procedure was reminiscent of the broader poor law, the poor law of lunacy was unlike the general poor law in that it was certainly not to be self-administering. They were however to be automatic and universal, without discretion on the part of those administering the statute.

These mandatory processes for asylum admission were overlaid in the statutes

f.], and that the dangerous were not necessarily confined: part II at 36. He also cites (albeit as atypical) the case of the North Riding of Yorkshire, where the Justices confined all poor lunatics in houses of correction, dangerous or not: part II at 31 f. This would suggest a significant degree of local variation, consistent with the old poor law.

⁵⁹Bentham also favoured a system of forcing beggars and those without honest means of livelihood into the panopticon: Outline of a Work entitled Pauper Management Improved, 1798, rpt. in The Collected Works of Jeremy Bentham, vol. VIII, ed. John Bowring, (Edinburgh: William Tait, 1843) at 401 and 403. These admission processes are discussed by Charles Bahmueller in The National Charity Company, (Berkeley: University of California Press, 1981) at 17. Bahmueller emphasizes the authoritarian aspects of Bentham's proposals. Where in Bentham's plan, such persons would be surrendered to the institution by members of the public who would receive a reward, the asylum acts made it the province of the poor law staff, arguably rendering the scheme more Foucaudean than its Benthamite counterpart.

by a completely different administrative model, a model of discretionary action by both Justices and poor law staff. This was the result of both the implied and explicit statements that decision-making under the act was discretionary, and of the limited application of the act.

The 1845 act had presented a system where the committal of the pauper insane would be mandatory. Even the Justice would have no discretion. This was directly undercut by an 1846 statute, which made it clear that the Justice was to admit an individual to the asylum only if satisfied of the propriety of confining the lunatic.⁶⁰ The actions of the Justice were therefore clearly discretionary, and remained so into the twentieth century.⁶¹ While the administration had changed from Tory to Whig between the 1845 and 1846 acts, parliament remained essentially Tory, and local paternalists had a strong voice. The continuation of discretion of the Justices was part of the reaction against the new poor law, in favour of the old system of administration. The local élites had not been prepared, as noted in chapter two, to give up their discretion in the administration of the new poor law; they were equally not prepared to give it up in the administration of pauper lunatics. Local paternalism remained secure.

Equally significant was the restriction of the application of the acts. The sections concerning admission procedures in the 1853 statute referred to a pauper "deemed to be a lunatic, and a proper person to be sent to an asylum".⁶² That these words should exist for the Justices is not a surprise: the decision of the Justices was discretionary in any event. From 1853 to 1862, however, this same formulation affected the duty of the poor law officials to commence an application for admission

⁶⁰9 & 10 Vict. c. 84, s. 1. There was one technical exception provided by the section, that when medical certificates were signed by both the committing medical officer and the union medical officer. In these cases committal did become mandatory. This exception seems to have been used extremely rarely. No case of this type appeared in my examination of the Leicester documents.

⁶¹v. 53 Vict., c. 5, s. 16.

⁶²16 & 17 Vict., c. 97, s. 67.

to the asylum.⁶³ The phrase "and a proper person to be sent to an asylum" was repealed in 1862 insofar as it affected relieving officers,⁶⁴ but it continued to modify the duty of the medical officer to notify the relieving officer. Similarly, the medical certificate prescribed by the 1853 statute and not altered in 1862 required the medical man to attest that the insane person was "a proper person to be taken charge of and detained under care and treatment".⁶⁵ This wording introduced an element of judgment into the decisions, not only of Justices, but also of these other officers.

Discretion was also implied from legislative ambiguities. Section 45 of the Poor Law Amendment Act provided that "nothing in this Act contained shall authorize the Detention in any Workhouse of any dangerous Lunatic, insane Person, or Idiot, for any longer Period than Fourteen Days".⁶⁶ The issue of the scope of this section was raised with the Law Officers of the Crown. The Poor Law Commissioners explained the resulting opinion to the local boards of guardians in the following terms:

The words 'dangerous lunatic, insane person or idiot' in this clause, are to be read 'dangerous lunatic, dangerous insane person or dangerous idiot,' according to the opinion of the Law Officers of the Crown given to the Poor Law Commissioners.

* * *

From the express prohibition of the detention of dangerous persons of unsound mind in a workhouse, contained in the clause just cited, coupled with the prevalent practice of keeping insane persons in workhouses before the passing of the Poor Law Amendment Act, it may be inferred that persons of unsound mind, not being dangerous, may legally be kept

⁶³Ibid.

⁶⁴25 & 26 Vict., c. 111, s. 19.

⁶⁵16 & 17 Vict., c. 97, Sch. (F.) No. 3.

⁶⁶4 & 5 William IV, c. 76, s. 45.

in a workhouse.⁶⁷

The letter went on to praise county asylums, but the point was clear: removal of non-dangerous lunatics to the asylum was discretionary. The section upon which this statement relied remained in force notwithstanding the enactment of the 1845 admission procedures. By 1862, the accommodation of lunatics in workhouses was given specific sanction in the asylum legislation⁶⁸ and in 1867, the poor law expanded to allow detention of the insane in workhouses against their will.⁶⁹

Each of these models had its effect. Shaftesbury, claimed that mandatory asylum admissions were the law well after this position could be reasonably sustained.⁷⁰ The discretionary model was extraordinarily influential at the local level, as chapters four and five will demonstrate.

The remainder of this dissertation considers these administrative relations in detail. Chapter four examines the roles of the individual administrators. Chapter five examines the documents relating to persons admitted to the Leicester and Rutland Lunatic Asylum. The administrative role of the Lunacy Commission is considered in chapter six.

⁶⁷Instructional Letter to Boards of Guardians, dated 5 February 1842, and reproduced in Eighth Annual Report of the Poor Law Commissioners, PP 1842 [359] xix 1 at 111.

⁶⁸25 & 26 Vict., c. 111, ss. 8, 20, 21.

⁶⁹30 & 31 Vict., c. 106, s. 22. The 1834 prohibition against accommodation of the dangerously insane remained in effect, notwithstanding this enactment.

⁷⁰v., for example, his evidence before the Select Committee on Lunatics, PP 1859 1st sess. (204) iii 75 at q. 590. The mandatory model of admissions has had its effect on modern historians as well: v., for example, J. K. Walton, "Casting out and bringing back in Victorian England: pauper lunatics, 1840-70", in The Anatomy of Madness, vol. II, ed. William F. Bynum et al., (London: Tavistock, 1985) 132 at 137.

Chapter 4: The Pragmatics of Co-Existence: Local Officials and Pauper Lunacy

The last chapter demonstrated that formal legal lines of authority were minimal and based on inconsistent administrative models. The responsibility for administering the new poor law was to rest with boards of guardians, who employed and supervised relieving officers, workhouse officers, and medical staff. This line of authority was in conflict with the asylum acts, which gave these staff people independent authority in committals and in decisions as to choice of institutional care for the pauper insane. The poor law central authorities had broad regulatory powers, but apart from audit controls, little practical way to enforce their edicts. Justices of the Peace were subject to even less legal control in their management of the county asylums. Central authorities were not absent from local administration, but they tended to operate by alliance and persuasion rather than by fiat. Their inspections were central to the establishment of these relationships, although voluminous correspondence between local and central authorities also ensued.

The administration of the poor law in general and the poor law of lunacy in particular is thus to be thought of in terms of webs of influence, alliance and distancing between the various persons involved. The statutes provided only a bare and inconsistent framework for the definition of these relations. The roles of the administrators were instead formed through participation in these relations. The administrators were not merely the constituent parts of these webs; their relative roles, functions and powers were also one part of the substance around which the alliances and divisions formed.

A local study is therefore necessary. The practical problems this poses for the researcher are summarized by M.A. Crowther:

The Poor Law also offers a striking example of central policy contending against local independence. Its history must avoid generalizations which give no idea of the great differences of practice in the localities, but also avoid the maze of colourful yet disconnected details in which this subject abounds. Source material is voluminous and confusing, and the thousands of volumes of correspondence between guardians the Poor Law authorities survive as memorials of these struggles. The huge bulk of documents, in the Public Record Office and in county archives, daunts the single researcher. No historian can consult more than a small number of them, and he will not know whether the area he selects is exceptional.¹

Notwithstanding these difficulties, reference to a local jurisdiction is necessary to consider how the law was actually being implemented.

The local study here concerns Leicestershire and Rutland. Given the importance of local administration, it is at best dubious whether a 'typical' area can exist. Nonetheless, and with that caveat, there is little in the case of Leicestershire and Rutland to suggest that they were particularly atypical. Apart from local arrangements between the Borough of Leicester and the counties regarding asylum care, discussed below, there were no relevant local acts affecting the implementation of poor law, and there were no Gilbert Unions. While manageable in size, the counties contained a good variety of urban and rural unions, and both manufacturing and agricultural industrial bases. The scale of the unions also provided variety. While Leicester workhouse grew to accommodate over 1,000 people by the late 1850s,² Billesdon workhouse in July 1864 contained only twenty-one inmates.³ While the smaller workhouses did not have special accommodation for lunatics, Leicester Union

¹The Workhouse System 1834-1929, (1981; rpt London: Methuen, 1983) at 6.

²Regarding the growth of the Leicester workhouse, v. Kathryn Thompson, "The Leicester Poor Law Union, 1836 - 71", diss. University of Leicester, 1982, at chapter 6.

³Report of workhouse visit by R. Weale, Asst. Poor Law Commissioner, 11 July 1864. PRO MH 12/6415, 8115/65.

began segregation of the insane within the workhouse in the early 1840s, and by the early to mid-1850s, paid nursing attendance had been provided for the roughly forty insane persons in the wards.⁴ There was nothing in the reports of the Lunacy Commissioners or the poor law inspectorate to suggest that the area was in any way notorious.⁵

The area was in general prosperous in the period from 1850 to 1870, so that various policy options were economically viable. The administration was further not centred around any single, pervasive, and particularly politically active personality whose involvement would make the area atypical. The boards of guardians may have been cliques,⁶ but that was not unusual. The head of the county asylum from 1853 was John Buck, the former Medical Officer of Health for Leicester. While he appears to have been a competent superintendent, he was not extraordinary in any respect. Thus while he apparently read the Journal of Mental Science, he made only one relatively inconsequential contribution to it.⁷

⁴Correspondence, Leicester Guardians to Poor Law Board, 9 December 1852, PRO MH 12/6476 at 47433/52, and report of the Lunacy Commissioners regarding Leicester Workhouse for 1854, contained at PRO MH 12/6477 at 10997/54. At the time of this report, there were forty-two insane inmates in the workhouse, all in the specialized wards. Hinkley Union also had specialized workhouse wards for the insane, on a somewhat smaller scale.

⁵Reports were in fact generally quite favourable, although it will be argued below that this may well be at least in part a result of a technique of alliance-building by the Commissioners: v. chapter 6, *infra*.

⁶Thus Kathryn Thompson details the connections between the Leicester Union guardians, showing family ties and business connections: v. "The Leicester Poor Law Union, 1836-71", *supra*, at chapter 4. Thompson sees this as related to the emergence of a new social élite in Leicester at this period. That in turn is consistent with the change in the composition of Quarter Sessions in the period: David Philips, "The Black Country Magistracy, 1835-60", 3 Midland History (1976) 161, and further discussion below.

⁷That was a letter in response to an article questioning what had become a standard practice of supervising incontinent patients at night. Buck's letter merely states that the practice of supervision at Leicester worked well: 4 Journal of Mental Science (1858) 309.

The county asylum was constructed in Leicestershire in 1837. The 1845 asylums act put both Rutland County and the Borough of Leicester under an obligation to make provision for their pauper lunatics in county asylums. Rather than construct asylums of their own, both made arrangements with the Leicestershire County Asylum, which took effect from the beginning of 1849.⁸ These agreements remained in effect until the opening of a new asylum for the Borough of Leicester in 1869. For this twenty year period, therefore, the poor insane were admitted from across the entire area.

The asylum is atypical in that it continued to accept patients who were not paupers. The original asylum had been built as a joint venture between the County of Leicestershire and a private charity. Patients admitted through the charity were not technically paupers, although it is an open question how different they were from the class of paupers. Originally, the asylum also accepted private patients in addition to these charitable patients, but this ceased in the 1850s due to space restrictions.

The surviving asylum records are generally good, containing good runs of different sorts of document. This is particularly true after John Buck became superintendent in 1853.⁹ There are, unfortunately, very few interesting documents relating to the charity until after 1870. The poor law documentation, both at the Public Record Office and the Leicestershire Record Office, is somewhat patchier. It is also much more voluminous, making reliance on indices a practical necessity.

⁸The Borough of Leicester had in fact been sending people to the asylum before this time. The decision of the Queen's Bench in R. v. Justices of Cornwall (1845), 14 L.J. (N.S.) M.C. 46 held that borough Justices could not commit individuals to the county asylum, even when the Borough had contributed to the asylum. This was solved by legislation in the case of Leicester, in 1849. The result can be seen as a restoration of the earlier status quo.

⁹The high standard of the admission documents may in part at least be the result of Buck's personal influence. Admission documents exist for 1851-2, and they do not tend to be of such high standard except for the ones signed by Buck himself. The asylum under Buck's guidance, by comparison, actually occasionally refused admission when documentation was insufficiently completed: v. Superintendent's Journal and Report Book, 10 November 1869, LRO DE 3533/84.

The next three chapters will examine the interrelations of the administrators, focusing on Leicestershire and Rutland. This chapter will consider the roles of local officials in juxtaposition to each other. The next chapter will focus on the admission documents and case books of the Leicestershire and Rutland County Lunatic Asylum and such relevant records as remain regarding the insane in the workhouses of the unions in those counties, to determine how the local officers understood the decisions being made regarding the committals of individual insane people. Chapter six will examine the role of the Lunacy Commissioners.

Justices of the Peace

The legal position of the Justices of the Peace in administering the poor law of lunacy has already been discussed. They were in charge of overseeing the building of county asylums, and their assent was required to send insane paupers to these asylums. In rural unions, they also served ex officio on boards of guardians, providing a point of contact between the poor law and lunacy administrations.

While the legislation concerning appointments of Justices remained unchanged from the mid-eighteenth to the twentieth century,¹⁰ the composition of the bench did not remain constant even between the 1830s and the 1860s. The eighteenth century bench had been composed primarily of local gentry. This resulted both from a property requirement contained in the statute and the fact that the post carried no remuneration, making it beyond the aspirations of those who were not of independent means. Particularly after 1780, clergy began to be appointed as gentry proved inadequate in numbers and inclination to fill the bench. By the early 1830s, these

¹⁰The relevant legislation on the appointment procedure in this period is 18 Geo. II, c. 20.

clergy accounted for roughly a quarter of the England's Justices.¹¹ In 1835, this source of appointments came to an end. Sympathetic to pressures from dissenters and radicals, the Whig government made a policy at that time that clergy ought not generally to hold judicial appointment.¹² An increasing workload nonetheless meant the concurrent need to expand the benches. The Black Country for example, just to the west of Leicestershire, had less than forty Justices in 1833; by 1859, it had 104.¹³ Starting in the mid-1830s, the lack of local gentry to fill these positions was compensated for by the appointment of local industrialists. In the Black Country in 1860, only eleven per cent of those appointed were gentry, and over fifty per cent were masters of the local iron and coal industries.¹⁴

The Justices have been portrayed as stubborn opponents of centralization in government. In this regard, the following comments of Esther Moir are typical:

A large part of the countryside, with the magistracy frequently its strongest spokesmen, thought still in terms of a traditional pattern of duty. The ideal of the well-regulated village dominated and cared for both in body and mind by a patriarchal parson and squire died hard - and indeed in many places was still as vigorous as it had ever been.

* * *

The magistrates, as they watched this invasion of their empire by a central army of paid officials appointed by Whitehall, would however defend their position not in

¹¹v. Esther Moir, The Justice of the Peace, (Harmondsworth: Penguin, 1969) at 107. Moir indicates that in Hereford, Cornwall, Lincoln, Somerset and Norfolk, clergy represented more than half of the active Justices by 1833, and in Cambridgeshire, represented almost the whole bench at that time.

¹²v. David Philips, "The Black Country Magistracy, 1835-60", supra, at 172.

¹³v. David Philips, "The Black Country Magistracy, 1835-60", supra, at 169. The Black Country, for Philips purposes, comprised the area bounded by Wolverhampton, Stourbridge, West Bromwich, and Walsall: Philips at 163. It was mainly in south Staffordshire, commencing roughly fifteen miles to the west of Leicestershire.

¹⁴v. David Philips, "The Black Country Magistracy, 1835-60", supra, at 164.

terms of mere self-interest but in terms of an abstract ideal of good government. For it was a widely held belief that too much central government would discourage local self-government and lessen individual self-reliance.¹⁵

While the change in composition of the Justices' benches suggests that the continuity of attitude suggested in Moir's work must be viewed sceptically, the Justices' disapproval of centralization is still not surprising. It was not merely that centralization attacked the traditional prerogatives of the county gentry, and would thus have been unpopular with them. It was also that Justices who were local factory owners would have been unsympathetic to centralized government. The first major inspectorate established was the factory inspectorate in 1833, which worked in direct opposition to the financial interests of these Justices. Shaftesbury's direct involvement with the Lunacy Commission would not have engendered trust, since his tireless efforts in the ten hours movement, attempting to set maximum hours of work in factories, would have done little to endear him to those Justices who were factory owners.

The Justices can be seen as a reflection of the paternalist ideology which was re-created in the nineteenth century. Consistent with earlier paternalist notions, local prerogatives in government were seen as constitutional rights. Philips' study of the Black Country shows the use by the industrialist magistrates of their position to govern and control their workers. Thus a fifth of the cases before them involved the theft of small amounts of coal or iron, the industries in which they were involved. Troops were used by the magistrates to protect collieries against striking miners, and prosecution of workers under labour legislation numbered 10,000 between 1858 and 1875 in the Black Country.¹⁶ Paternalism based on the values of the old gentry was giving way to a paternalism based on wage labour and employment, much as was seen

¹⁵The Justice of the Peace, *supra*, at 134-5.

¹⁶v. David Philips, "The Black Country Magistracy, 1835-60", *supra*, at 175 ff. The number of worker prosecutions is unusually high in this county. No other county had more than half this number of prosecutions in this period.

in the discussion of Malthus and poor law theory, above. The paternalist hierarchy was becoming associated not merely with traditional social hierarchy, but also the hierarchy of employment relations.

There were few practical methods available to challenge this exercise of local authority and antipathy to central control. Even when the Justices were acting in contravention of the law, enforcement mechanisms were cumbersome and beyond the practical reach of the central poor law and lunacy authorities, with their highly limited staff. Publicity was not necessarily effective. Notwithstanding the complaints persistent of the Lunacy Commissioners in their annual reports, the City of London, largely through a policy of stubborn inactivity, did not open an asylum until 1866, more than twenty years after the legal obligation had been imposed.¹⁷ In 1857 it was alleged that pauper lunatics in Birmingham and Nottingham were routinely admitted to the local workhouse, rather than being brought before Justices and admitted to the county asylum. This course was allegedly followed for reasons of expense. The matter was sent by the Lunacy Commissioners to the Solicitor General for a legal opinion. The resulting opinion held that to maintain pauper lunatics in workhouses who were proper persons for detention in asylums, for the purpose of lightening the poor rates was an evasion of the legislation. The only remedy suggested was to apply for mandamus to require the Justices to hold proper hearings, a remedy which the opinion itself recognized was inadequate:

... we cannot disguise from ourselves that any proceedings for the purpose of putting a stop to these illegal practices are involved in a great difficulty, and that the aid of the legislature may be necessary to invest the Commissioners with larger powers in such cases.¹⁸

¹⁷The asylum finally opened in March of 1866: v. Twentieth Annual Report of the Commissioners in Lunacy, PP 1866 (317) xxxii 1 at 6. For previous complaints regarding the City of London's failure to provide for its pauper lunatics, v. Seventh Annual Report, PP 1852-3 xlix 1 at 10; Ninth Annual Report, PP 1854-5 (240) xvii 533 at 9; Thirteenth Annual Report, PP 1859 2nd sess (204) xiv 529 at 86 ff.

¹⁸PRO MH 51/749.

The granting of increased powers to the commissioners had, of course, political problems of its own. Paternalism had its influence at Westminster as well as in the shires. Nicholas Hervey identifies two areas where otherwise good and sympathetic relations between the Home Office and the Lunacy Commission became strained: financial expenditures and the curtailment of Justices' authority.¹⁹

At the same time, the law of pauper lunacy could provoke a certain sympathy from Justices, as it provided authority for them in the poor law field, separate and distinct from the boards of guardians. The desire of the Justices for autonomy from central government and the commissioners should not be taken as implying a unity between Justices and poor law authorities at the local level.

A particularly clear case of this protectionism concerned the Justices of the Hull Asylum, who following complaints by the Sculcoates guardians regarding the quality of the food, refused to allow the guardians again onto the ward, arguing that the right of the guardians to "visit and examine any or every pauper lunatic chargeable to such union"²⁰ referred only to the person of the lunatic, and not to the "treatment, means of subsistence, and other comforts and requisites" offered in the asylum. The guardians complained to the Home Secretary, who asked for the opinion of the Commissioners in Lunacy. The commissioners made a legalistic argument, which offered a compromise: the visitors had the right to view their insane paupers on their wards, but had no right to inquire into matters such as the food "apart from such opportunity as a visit at the dinner hour might afford". This view was forwarded to the asylum, and the visiting Justices protested. The matter was then forwarded to the Law Officers of the Crown, whose opinion essentially upheld that of the commissioners.²¹ The tenacity of the Justices, in the face of both the guardians and the commissioners, suggests a determination to guard their autonomy regarding the

¹⁹"The Lunacy Commission 1845-60", Diss. University of Bristol, 1987, at 294.

²⁰16 & 17 Vict., c. 97, s. 65. (the 1853 County Asylums Act).

²¹The account of this matter is drawn from the Twentieth Annual Report of the Commissioners in Lunacy, PP 1866 (317) xxxii 1 at 14-16.

asylum.

The documents available for Leicestershire and Rutland pose problems for the assessment of these local relations, as the Justices as a group left very few relevant records. They signed documents authorizing paupers' admission to the asylum, but they did not comment on them, and key questions such as the frequency with which they refused to sign these admission documents cannot be answered in any systematic way. Such documents as there are suggest that the law of pauper lunacy was used by the Justices to reinforce their status as independent of both central authority and local poor law guardians.

The rules of the asylum were circulated to the Justices in 1849, along with a preface prepared by the visiting committee lauding praises of the asylum. The visitors were themselves primarily Justices.²² This document was thus written by and for Justices of the Peace. The thrust of the preface was that the mid-nineteenth century county asylum was the first serious attempt to address the explosion of pauper lunacy. It provided a cursory history of lunacy law, marginalizing the importance of eighteenth century legislation. The 1808 act had been imperfectly implemented:

...it was not compulsory, however, and during the next twenty years only seven Asylums were erected, not capable of receiving in the whole more than 1457 Patients, although by Parliamentary Returns made in the year 1827 it appeared that there were at least between 9,000 and 10,000 Pauper Lunatics in England!²³

²²Since the asylum was formed in part as a charitable institution by public subscription, the charity appointed roughly one third of the visiting committee. The distinction is of limited importance, given the overlap of personnel between the charity and the asylum. Thus of the eight trustees of the charity in 1849, all but the Duke of Rutland, Earl Howe and Lord Berners were also county visitors and thus Justices. Lord Berners became such a visitor two years later in 1851.

²³Leicestershire and Rutland Lunatic Asylum, "Rules for the General Management of the Institution, with Prefatory Remarks by the Committee of Visitors", (Leicester, 1849), at 11. The statement appears to refer to both county asylums and private madhouses which accepted paupers.

Early establishments for lunatics also suffered from improper supervision:

The condition of the insane poor was partially remedied by the establishment of these Asylums; but they were left to the unrestrained authority of attendants; there was no power to check the oppression and cruelty too frequently practised; madhouses became proverbially places of horror, and the patient received no other care from his keeper than that which was necessary for the confinement of his person.²⁴

The rules of the Leicestershire and Rutland Lunatic Asylum provided a response to this problem, establishing the duties of the visiting committee regarding inspections.²⁵ The mid-century asylum was thus portrayed by the report as reflecting what would have been considered proper lines of authority, lines of authority headed by the Justices.

The preface emphasized lunacy as a social problem, exploding in its dimensions, a trend to which the county asylum provided a solution:

If, as will be shown hereafter, mental disorder be of a character peculiarly dependant for its cure upon early and judicious treatment, it may well be imagined that the reverse of this could have but one effect, and that the number of the insane must necessarily increase, from the few that were restored to reason; but few persons perhaps, except those who have seen the Parliamentary Return of 1847, are prepared to learn that on the first of January in that year there were in County Asylums, Licensed Houses, Workhouses, and other places of confinement, upwards of 23,000 INSANE PERSONS IN ENGLAND AND WALES ALONE! that even these Returns were believed to be short of the truth, and that the number of Insane and of those engaged solely in

²⁴Leicestershire and Rutland Lunatic Asylum, "Rules for the General Management of the Institution", supra, at 12.

²⁵Leicestershire and Rutland Lunatic Asylum, "Rules for the General Management of the Institution", supra, at 4-8.

their care, was not less than 30,000!²⁶

The preface went on to estimate national expenditures related to county asylums at close to a million pounds per year, emphasizing the importance of stemming the tide of lunacy sooner rather than later.²⁷

If the county asylum was the solution to this dilemma, it was a solution which the visiting Justices juxtaposed to the principle of less eligibility of the new poor law. Consider the following description of the Leicester Asylum, contained in the preface:

Placed on an eminence, and commanding one of the most beautiful views in the County of Leicester, extending over the valley of the Soar, and bounded by the hills of Charnwood Forest, there is everything in its position to soothe and cheer the patient; the grounds belonging to the Asylum comprise in the whole twenty acres, part of which is laid out in walks and pleasure grounds, and the remainder, save such part as is occupied by the building and the yards for the exercise of the Patients, is cultivated as much as may be by the inmates themselves; labour in the open air being found of all employments the most conducive to health of the great majority of the insane; not, however, that the comforts of those who are necessarily debarred from this exercise, are neglected, no effort is left untried to cheer the melancholy, and soothe the excited, the great object being to make this Asylum a HOUSE OF CURE, and not a HOUSE OF DETENTION.²⁸

Whether or not this was an accurate picture of asylum life is open to question; what is relevant here is the image presented, an image inconsistent with the hardness of the

²⁶Leicestershire and Rutland Lunatic Asylum, "Rules for the General Management of the Institution, supra, at 12. Emphasis in original.

²⁷Leicestershire and Rutland Lunatic Asylum, "Rules for the General Management of the Institution", supra, at 12 f.

²⁸Leicestershire and Rutland Lunatic Asylum, "Rules for the General Management of the Institution", supra, at 19.

new poor law. This imagery continued throughout the period under study. When a separate asylum was being constructed for the Borough of Leicester in the mid-1860s, the board of guardians for Leicester Union was moved to pass the following motion:

that this Board is gratified to find that at length accommodation is about to be provided for persons of unsound mind, in an Asylum for the borough.

This board however cannot conceal its regret, that in the Town Council there appears to be a desire for external ornament in the proposed building, which in the opinion of this board would be somewhat out of character in a Pauper Lunatic Asylum.

The chief object of such Institutions is the recovery of the Patients, and this Board would therefore, with all respect submit, that while every convenience and appliance that will further this object should be provided; it should ever be borne in mind that the inmates of such an Institution will for the most part, if not exclusively, be Paupers, and that to provide a building for their reception, with much external decoration, would be both impolitic and unwise' (A copy of the foregoing resolution to be sent to the Town Council).²⁹

Lest the guardians be thought without justification, it might be noted that the capital costs for the construction of the new asylum eventually reached £50,000, almost three times its budgeted price of £17,300, a point criticised by the Lunacy Commission.³⁰

Such documents as there are would suggest that the Leicester Justices viewed the admission of paupers to the asylum in a pragmatic way, as one would expect of local administrators. Here again, as on the larger issue of the construction and administration of county asylums, they appear to have guarded their independence, and felt free to make their own decisions as to appropriateness of admissions,

²⁹Minutes of Leicester Board of Guardians, 03 April 1866, LRO G/12/8a/12.

³⁰Twenty-Fifth Report of the Commissioners in Lunacy, PP 1871 (351) xxvi 1 at 339.

notwithstanding pressure from medical officers or central authorities. The clearest documentation resulted from the report of Samuel Hitch on the workhouse and outdoor relief in Leicester, in 1844. Hitch, at that time the secretary and moving force of the *Association of Medical Officers of Asylums and Hospitals for the Insane*, stated that fourteen people in the workhouse or on outdoor relief ought to be removed to the asylum. For seven of these people, the Justices refused to sign the admission documents. Five of the seven were held by the Justices to be not insane. To reach this conclusion, the Justices had to depart from the view both of Hitch, who had recommended them for removal to the asylum, and of the poor law medical officer, who had listed them insane on the quarterly returns. The other two cases, those of Jane Abbott and Mary Bevan, the Justices did not consider proper for admission to the asylum. For them, unlike for the other five, reasons were given which warrant quotation:

though the said Jane Abbott is insane yet we are satisfied from the statement of her sister who has the charge of her and also from the [poor law] Surgeon that she is perfectly harmless and that she is well taken care of and no annoyance to any one. it is also stated by the Surgeon that there is no probability of any improvement in her state of mind by removing her to the Lunatic Asylum; for these reasons we have declined making orders.

* * *

though the said Mary Bevan appears to be insane yet according to the evidence of the Matron and Surgeon she is perfectly harmless. It also appears that she is strongly attached to her mother who is with her in the Workhouse and is blind, and that they are a material comfort to each other; for these reasons we do not think it a proper case to send to the Lunatic Asylum.³¹

These findings were completely at odds with Hitch's report. He had stated that Jane

³¹Copies of these reasons are contained in the correspondence between the Leicester Guardians and the Poor Law Commissioners for 26 December 1844, PRO MH 12/6470, 19730/44.

Abbott was allowed to wander for entire days at a time under essentially no control at all and was troublesome to her neighbours; and he referred to Mary Bevan's "dangerous irascibility"³²

It is inappropriate to read in too much to these few cases. This is particularly true since Hitch's inquiry was prompted by the visit of the Metropolitan Lunacy Commissioners to Leicester in preparation of their 1844 report. There was thus a politically charged atmosphere to the Justices' decisions. The decisions were nonetheless consistent with what would be expected. The Justices were guarding their own decision-making role regarding pauper lunatics, and loathe to relegate that role to either medical professionals or the central commissioners. In general, it does not appear that the Justices were adverse to sending people to asylums, but they do seem to have insisted on the demonstration of a concrete reason to send each pauper; general praise of the institution does not appear to have been convincing.

Boards of Guardians

There have already been introductory remarks about the Leicestershire and Rutland boards of guardians. As indicated above, they offered a variety of institutional responses to the problem of pauper lunacy, from little specialized treatment in small workhouses to dedicated wards in Leicester and Hinkley.³³ The problems of central authorities enforcing their edicts by litigation applied here as much as to the Justices, although audit controls gave the poor law central authorities some broad controls over local guardians, particularly in the enforcement of out-door relief

³²Hitch's report is dated 10 December 1844. A copy is contained in the correspondence between the Leicester Guardians and the Poor Law Commissioners, PRO MH 12/6470, 18259/44. Unfortunately, Hitch did not provide reasons for considering individuals insane, although he does provide diagnoses. His concern was with standard of facilities, appropriateness of care, the behaviour of the individuals and possibility of improvement or cure. Comparative assessment of the Justices findings that the other five individuals were not insane is thus not possible.

³³Hinkley's wards appear to have been smaller than Leicester's, containing about fourteen insane people in the early 1850's: correspondence with Poor law Board, PRO MH 12/6447, #23734/52 (15 June 1852).

prohibition orders.

Local boards of guardians displayed a mixed response to the new poor law generally, and to the poor law central authorities in particular. There was general popular resistance to the introduction of the new poor law in the area. In both Leicester and Billesdon, workhouses were attacked. Troops were required to keep the peace in both Leicester and Hinkley in this period. This was associated with chartist agitation, but the new poor law attack on outdoor relief was an important factor. The responses of the guardians to these problems varied. Thus it would appear that the guardians of Leicester Union, where conservatives held the majority until 1845, appear to have co-operated with the Poor Law Commissioners in a vague alliance against the chartists and radicals. In Hinkley, the outdoor relief prohibition order imposed on the union in the face of a trade depression at the end of the 1830s found the guardians unsympathetic to the commissioners. They essentially refused to implement the new poor law. Their staff complained to the commissioners that medical relief was used as a pretext for the grant of outdoor relief,³⁴ and it was only following highly unusual step of commencement of litigation by the Poor Law Commissioners that the Hinkley guardians agreed to build a workhouse.³⁵ Billesdon Union did build a workhouse, but refused to furnish the vagrant wards until after 1870. Throughout this period, vagrants were housed in local rooming houses, and were not required to work,³⁶ a system reminiscent of the old poor law.

³⁴Correspondence between Hinkley Union and the Poor Law Commissioners, unsigned and undated, [May 1838?], PRO MH 12/6443. See also Anne Digby, Pauper Palaces, (London: Routledge, 1978) who remarks on the use of the same loophole in Norfolk in the same period.

³⁵Litigation was commenced in June, 1838: correspondence between Hinkley Union and the Poor Law Commissioners, PRO MH 12/6443, 6465C/38 (18 June 1838). The litigation was settled shortly thereafter on the undertaking that the union would build a workhouse. Nonetheless, land was not purchased for another year: v. 4889C/39 (15 June 1839).

³⁶See report of Assistant Commissioner Peel regarding visit to workhouse, 23 July 1868, contained in correspondence between Poor Law Board and Billesdon Union, PRO MH 12/6415, 49329, requesting the furnishing of the wards. The Guardians refused to provide workhouse accommodation for vagrants: v. subsequent report of

Approaches to poor law ideology were similarly varied. There were boards which adopted the new thinking relatively quickly. Other boards held to the old poor law thought patterns for some time after its replacement in 1834. Thus the correspondence of Billesdon Union with the commissioners, particularly in the early years of the new poor law, emphasized the character of their paupers when they wished for a departure from the rigours of the new law, an approach which met with little success. Other boards wrote relatively freely to the poor law central authority asking for advice on the interpretation of the legislation. It would be overstating the case to imply that these boards saw themselves as administrative units of a centralized system, true to the Benthamite model; even these boards guarded a level of autonomy. Even so, they do seem to have had a relatively comfortable working relationship with the central commissioners.

What should be emphasized at this point is the interest of at least some boards of guardians in matters of pauper lunacy. The minutes of the Leicester board of guardians, for example, show a legitimate attempt to ensure proper institutional care of their lunatics. When in the 1840s pauper lunatics had to be sent to private houses owing to the unavailability of the asylum, they sent members of the board to inspect the houses in advance.³⁷ Periodic inspections were made of these facilities while Leicester patients remained in them, and when a scandal broke about the Haydock Lodge madhouse, the Borough acted promptly in removing its inmates.

Leicestershire and Rutland boards of guardians also appear to have taken their visitation duties to the county asylum relatively seriously, although unions farther from the asylum seem to have visited less. The minute book of visitors to the asylum lists seventy visits from poor law guardians between 1851 and 1865.³⁸ This should be

Assistant Commissioner Peel, PRO MH 12/6415, 16349/69 (24 Mar 69).

³⁷v. Leicester Guardians minute book, 8 September 1846 and 29 September 1846, LRO G/12/8a/3.

³⁸LRO DE 3533/8.

seen as a minimum figure, as it is not clear how complete the record was.³⁹

The guardians, like the Justices, were local administrators dealing with practical problems. Like the Justices, they needed to be convinced of the merits of asylum care for each individual to be sent. The following comment from the Hinkley Union does not appear atypical:

In reply to your letter of the 16th Inst 11743/43 relative to the cases of William Hill and Thomas Vernon and am directed by the Board of Guardians to state that after consulting with their Medical Officer they are of the opinion that the above are not fit cases for the Asylum, the paupers are not so dangerous as to require restraint, their habits being dirty, and their dispositions at times to tear their own clothes, from what we can learn from the friends of Hill he has been in an asylum, and Vernon has been imbecile for so many years that there is not the slightest chance of his recovery.⁴⁰

This attitude conforms to the testimony of Poor Law Inspector H.B. Farnall before the Select Committee on Lunatics in 1859: "if there was a prospect of their cure they would be removed [to an asylum]; if not, the guardians would object to paying more."⁴¹

Poor Law Medical Officers

³⁹It is clear that later, the record was not complete. Thus the Guardians of Shardlow Union commented on 27 March 1882, that they were "pleased to note that there have been many improvements in the sanitary arrangements of the institution since our last visit." No previous visit was recorded. (Note that Shardlow Union was mainly in Derbyshire, so relatively infrequent visits are not a surprise.) There is furthermore not a single derogatory remark in the book, suggesting that comments may have been by invitation only, and the book used to portray the asylum in a positive light.

⁴⁰Correspondence with Poor Law Commissioners, 28 September 1843, PRO MH 12/6446, #15392B/43.

⁴¹Minutes of Evidence of Select Committee on Lunatics, PP 1859 1st sess., (204) iii 75 at q. 1624.

The standard of poor law medicine and of poor law doctors was much criticised in the nineteenth century, as the rising medical profession found itself allied with the critics of the new poor law. Thus the poor law medical officers, even more explicitly than the guardians, Justices, and central authorities, found themselves not merely participants in, but also subjects of poor law debate. Increasingly, medical officers' duties, credentials, catchment areas and pay became the subject of legal regulation. By 1842, reasonably high professional standards were in place for poor law medical officers,⁴² and all poor law medical officers were required to be registered under the Medical Act when it was introduced in 1858.⁴³ Increasingly over the 1840s and 50s, medical officers were required to live within their districts, and by 1860, medical districts were not to exceed 15,000 acres, nor to extend more than six miles from the medical officer's residence. A problem in the south west and the

⁴²In order to be appointed as a poor law medical officer, a candidate had to possess the qualifications prescribed in one of the following categories:

1. A diploma or degree as surgeon from a Royal College or University in England, Scotland, or Ireland, together with a degree in medicine from an University in England, legally authorized to grant such degree, or together with a diploma or license of the Royal College of Physicians of London.
2. A diploma or degree as surgeon from a Royal College or University in England, Scotland, or Ireland, together with a certificate to practice as an apothecary from the Society of Apothecaries of London.
3. A diploma or degree as a surgeon from a Royal College or University in England, Scotland, or Ireland, such person having been in actual practice as an Apothecary on the first day of August One thousand eight hundred and fifteen.
4. A warrant or commission as surgeon or assistant surgeon in Her Majesty's navy, or as surgeon or assistant-surgeon in her Majesty's army, or as surgeon or assistant surgeon in the service of the Honourable East India Company, dated previous to the first day of August One thousand eight hundred and twenty-six. [Glen, William Cunningham, The Consolidated and other Orders of the Poor Law Commissioners and the Poor Law Board, 4th ed., (London: Butterworths, 1859) at art 168.]

⁴³21 & 22 Vict., c. 90. This act created a formal register of medical practitioners, under the guardianship of the General Medical Council. The GMC had the power to remove individuals from the register for professional misconduct.

midlands was lack of available candidates. This could be a problem in Leicestershire and Rutland.⁴⁴ This problem was aggravated by the relatively high medical certification required. Thus Peter Alfred Jackson of Leicester was appointed medical officer to a district in Barrow Union in 1857, as the only medical practitioner resident in the union did not have the required dual qualifications.⁴⁵ In 1861, 291 medical officers held 629 appointments in the south west and midlands.⁴⁶

Both the nineteenth century sources and much of the twentieth century secondary literature suggest that poor law medical officers had low social esteem. Usually, they would practice privately in addition to their poor law duties. Crowther argues that the motivation to accept the position was essentially economic: to subsidise a private practice which was not paying well enough, or to keep a competing doctor from entering the territory.⁴⁷ Guardians were accused of paying more attention to economy than to an officer's calibre.⁴⁸ The Leicestershire documents provide some justification for the criticism of a low calibre of medical service: there were scandals in both Barrow and Blaby unions regarding medical officers failing to

⁴⁴v. James Wood (medical officer to districts in both Ashby and Loughborough Unions, for an uncertain period ending in 1865), Henry Nuttall (districts in both Barrow and Leicester Unions, 1865-70), Thomas Spencer (districts in both Market Bosworth and Hinkley Unions, 1868-74), Charles Crane (districts in both Market Harborough and Uppingham Unions, 1866-1878), Frank Fullagar (districts in both Blaby and Leicester Unions, 1846-63). Other medical officers worked in more than one medical district within one union.

⁴⁵v. correspondence between Barrow Union and the Poor Law Board, 24 March 1857, PRO MH 12/6401, #14484/57.

⁴⁶v. Ruth Hodgkinson, The Origins of the National Health Service (London: Wellcome, 1967) at 371.

⁴⁷The Workhouse System 1834-1929, (1981; rpt. London: Methuen, 1983) at 157.

⁴⁸One member of the 1859 Select Committee on Lunatics for example asked whether it was not "notorious that the medical man appointed is one who will do the work for the lowest possible price": v. PP 1859 1st sess (204) iii 75 at question 1631. This allegation was denied by Assistant Commissioner Farnall, who stated that "the guardians, when they advertise for a medical man, advertise the salary which they mean to give him. ... the amount is fixed in the advertisement.": at question 1632.

attend patients who later died.⁴⁹ In the Blaby case, the guardians were pressured by the Poor Law Commission into asking for the resignation of the medical officer concerned. In the Barrow case, the Poor Law Board, noting the medical officer's long and otherwise unblemished record, was content to "express a hope that he [the medical officer] will be more careful in the discharge of his duties in the future."⁵⁰

Particularly in the early years of the new poor law, it would appear that guardians were able to keep a firm grip on their medical officers. Appointments were often by contract, subject to annual renewal; there was minimal organization within the medical profession; and the Poor Law Commissioners lacked an effective means to challenge the control of the guardians. It would be simplistic to suggest that this resulted in medical officers blindly following the will of their guardians, but it is certainly true that the sole employment allegiance owed by the medical officer was to the local poor law officials.

As the new poor law developed, various influences increased the independence of the poor law medical officers. First there was the increasingly specific regulation of duties, which in turn resulted in greater involvement of the central authorities. The county asylum acts, with their admission processes specifying the role of the medical officer of the union is a part of this trend. Regulations of the poor law central authorities further defined specific duties for poor law medical officers, such as the inspection paupers admitted to the workhouse, to identify those who ought to be sent to asylums.

Whether these duties were imposed by statute or by regulation of the central authority, medical officers might invoke the authority of the Poor Law Commissioners

⁴⁹v. correspondence between Blaby Union and Poor Law Commissioners, 18 November 1842, PRO MH 12/6422, #14546/42; correspondence between Barrow Union and the Poor Law Board, 25 July 1859, PRO MH 12/6401 #28559B/59. It would appear that such scandals were common: v. Crowther, The Workhouse System 1834-1929, *supra*, at 160 ff.

⁵⁰correspondence between Barrow Union and the Poor Law Board, 25 July 1859, PRO MH 12/6401 #28559B/59.

or Board against the guardians in the enforcement of the prescribed arrangements. Thus for example when the guardians of Barrow on Soar Union failed to pay medical officer Downey for a visit to Jane Kettle in 1856, he enlisted the assistance of the Poor Law Board to enforce payment.⁵¹ Such approaches were by no means always successful, but the poor law central authorities did treat the medical officers concerns seriously, and by arbitrating or deciding the issues between medical officers and the guardians as between distinct legal parties, increased the image of the medical officer as having a role separate and distinct from following the orders of the guardians. This was further reinforced by the insistence of the central poor law authority on receiving the report of the medical officer regarding lunatics whom it thought ought to be in the asylum.

Early in the new poor law, the central authority had only the tools of persuasion and bureaucratic persistence to enforce these new relationships. Commencing in the 1840s, however, half of the salaries of permanent medical officers started to be paid by Westminster. The result relating to the relationships between guardians, medical officers, and central authority was twofold. There was an economic inducement for boards of guardians to terminate arrangements based on annual contracts, thus minimizing the precarious nature of the employment of the medical officer and providing a certain autonomy from the guardians. This took effect gradually over the 1840s and 1850s to a point where permanent salaried positions became the norm. It also increased the persuasiveness of central involvement: when the central authority paid half the piper's costs, they began to enjoy a considerably expanded role in the choice of music. Details of proposed candidates' careers were increasingly scrutinized by the central board, and appointments of candidates deemed inappropriate were increasingly questioned. Because of their approach to the medical officers, outlined above, this too resulted not merely in their increased control of the

⁵¹correspondence between Barrow on Soar Board of Guardians and Poor Law Board, PRO MH 12/6400 #33838 (27 August 1856). Joseph Stallard of the Leicester Union adopted a similar tactic in 1853, regarding the duty to visit quarterly and payment for such visits of those pauper lunatics who were resident in workhouses: correspondence between Leicester Union and the Poor Law Board, PRO MH 12/6476, #38216 (26 October 1853).

local situation, but also in a position for the medical officers increasingly distinct from the guardians.

Second was the increasing organization of the medical profession. Where at the beginning of the nineteenth century, it was a diffuse and undifferentiated mass, the growth of professional organizations such as the British Medical Association and legislative reforms, particularly the Medical Act of 1858 introduced the rudiments of professionalism. Disciplinary proceedings became a professional matter, not solely a matter between doctor and patient or, in the poor law context, between guardians, central authority, and medical officer.

Connected with this were the lobbying efforts of the workhouse medical officers themselves. They formed a variety of professional organizations and interest groups over the course of the century, including the Provincial Medical and Surgical Association (founded 1832 and active until the early 1840s), the annual Convention of Poor Law Medical Officers (commencing in 1846), the Poor Law Medical Relief Association (founded 1855), the Association for the Improvement of Workhouse Infirmarys and the Poor Law Medical Officers' Association (both founded 1866, and merging shortly thereafter). These gave some professional and collegial support to their members, and also, of course, increased the profile of the medical officers. These organizations, along with the critical interest of the broader medical community, allied themselves with the humanitarians and those parts of the paternalists critical of the new poor law. Lord Shaftesbury presided at a number of meetings of the Poor Law Medical Relief Association and the Convention of Poor Law Medical Officers.⁵²

Some indication of the relative importance accorded to medical officers as opposed to other poor law officials can be seen from their relative pay. Ruth Hodgkinson states that in 1850, the average salary of a medical officer was £50 per annum, as compared to £268 for the district auditor, £110 for the union clerk, £82 for

⁵²Hodgkinson, Origins of National Health Service, *supra*, at 435.

the relieving officers, £47 for the chaplain, £14 for the nurses, £37 for masters and matrons, £31 for schoolmasters and £21 for schoolmistresses.⁵³ This is misleading, in that medical officers are unique on the list as being almost exclusively part-time appointments.⁵⁴ A full-time medical officer of a sizeable workhouse might earn £250 to £350 per annum,⁵⁵ giving support to Crowther's contention that medical officers became the most important workhouse officials.⁵⁶

The increasing independence of the medical officers did not necessarily mean a departure from the principles of the new poor law. Joseph Rogers was a central figure in the Poor Law Medical Officers' Association, and worked tirelessly to improve the professional position of medical officers in workhouses. His autobiography, published in 1889, portrays him as a humanitarian and crusading figure against the tyranny, corruption and ineptitude of the guardians.⁵⁷ Yet upon his

⁵³Origins of the National Health Service, *supra*, at 386.

⁵⁴In 1857, only twenty-seven of the 3,018 medical officers in England and Wales were precluded from private practice in addition to their poor law duties: Ruth Hodgkinson, The Origins of the National Health Service, (London: Wellcome, 1967) at 371.

⁵⁵See for example, Charles Buncombe (City of London) who was paid £275 p.a. in the 1850's and 1860's; Frederick Page (Portsea Island), paid £315 p.a. in the late 1860's, and Edmund Robinson (Birmingham), paid £250 p.a. from 1861 to 1865 and £350 p.a. from 1866 to 1869: Register of Paid Officers, PRO MH 9.

⁵⁶The Workhouse System 1834-1929, *supra*, at 156.

⁵⁷Thus his brother says in the introduction to the work,

In the eyes of the Strand Guardians, or rather a majority among them, his offences on behalf of justice and humanity were unpardonable. He had to be got rid of. In this the officials of the Poor Law Board, then under Lord Devon, agreed with the Guardians. The guardians picked a quarrel with him, the Poor Law Board instituted an inquiry, and apparently instructed their Inspector as to what he should report, and the President gave solemnity to the farce by removing him from his office. The ground on which he was dismissed was that 'he could not get on with the Board of Guardians.' Of

appointment as medical officer of the Westminster Infirmary, his first act was to preclude much of the extra diet which was given to inmates, and to enforce the workhouse dietary:

I learned afterwards that in the matter of diets an extensive system of exchange obtained throughout the House without any check or hindrance on the part of the officials. It took me the greater part of four days to see all the infirm people on extras, but the result was satisfactory, as it enabled me to put the establishment so far as the diets were concerned, on an economic basis. The clerk of the Board assured me at the time that I had caused a saving of some hundreds of pounds, a statement which I honestly believe was the truth.⁵⁸

Thus Rogers was in practice enforcing the workhouse test with a vigilance more forceful than the guardians, but in a way which supported his professional aims. Extra diet was to be given for health reasons, and thus in his own discretion.⁵⁹ A similar dynamic can be seen in Leicester union in 1862, when the Lunacy Commission argued for roast meat and beer to be a part of the diet for the insane in the workhouse, and for a moderate allowance of tobacco to be offered. It was the medical officer who initially objected to the provision of beer and tobacco, and to the provision of

course he could not. No man of sense, honour, humanity, decency, and conscientiousness, could get on with them, or, in those evil days, with the Poor Law Board either; for the President and his officials, perhaps unconsciously, leagued with the guardians in the maltreatment of the poor. [Thorold Rogers, *Introduction to Reminiscences of a Workhouse Medical Officer*, by Joseph Rogers, (London: T. Fisher Unwin, 1889) at xix f.]

⁵⁸Joseph Rogers, *Reminiscences of a Workhouse Medical Officer*, (London: T. Fisher Unwin, 1889) at 114 f.

⁵⁹Joseph Rogers, *Reminiscences of a Workhouse Medical Officer*, *supra*, at 114. His approach is consistent with the workhouse rules, which put the diet for sick and disabled paupers at the medical officers discretion. This further illustrates how the further regulation by the central authority resulted in further independent authority for the medical officers.

roast meat unless it would be provided to all inmates.⁶⁰

The medical officers could similarly be independently minded in their assessment of the insane. The following extract from the 1866 annual report of the Lunacy Commissioners would suggest that in the "few cases" where their removal powers under the 1862 act had been used, it was as often to circumvent the medical officer as the guardians:

For while it will often happen, as we have seen in the case above-mentioned, that the opinion of the Medical Officer recommending such removal is successfully resisted by the guardians, it is also a not unusual occurrence that where the Guardians would sanction a removal the Medical Officer himself interposes difficulty.⁶¹

The independence of the medical officer in this area is perhaps not surprising. Certainly, medical officers had no formal training in lunacy related matters, and in general, they were not chosen for an interest or expertise in matters of insanity.⁶² On the other hand, they had as much expertise as anyone else in the admissions process, and as has been noted above, the statute gave them explicit authority to exercise their discretion in these matters. The independent judgment also takes on a somewhat different aspect regarding medical officers of workhouses with large lunatic wards. At a time when even superintendents of county asylums had no formal training in lunacy-related matters and where experience was the only teacher, it is not surprising that the medical officer would feel his experience as relevant as any to justify independent judgment.

⁶⁰v. K. Thompson, "The Leicester Poor Law Union, 1836-71", *supra*, at 226.

⁶¹Twenty-First Report of the Commissioners in Lunacy, PP 1867 (366) xviii 201 at 25.

⁶²v. evidence of H.B. Farnall before the Select Committee on Lunatics, PP 1859 1st sess. (204) iii 75 at question 1627.

The low status of the poor law medical officers and the poor reputation of poor law medical services has been noted above. It is possible to see this reputation as the result at least in part in terms of divergence within the profession. The poor law held a particular place in the development of medical professionalization. The level of services provided by the poor law was heavily criticised by the emerging medical profession, criticisms which struck a resounding chord with the forces opposed to the new poor law on paternalist or humanitarian grounds. The place of the poor law medical officers was ambiguous in this criticism. As medical men, they were part of the forces which were to reform this system; but as poor law officials, they were also the creators of the existing deficient system. Certainly there were poor law medical officers who were of a low standard. Some medical officers adopted and enforced the poor law system, such as those removing extra diet from inmates; but they might also be involved in more sympathetic activity, often reflecting public health initiatives which were also a part of the poor law. Thus George Greaves of the Chorlton Union published a guide for surgeons administering the Factory Acts in 1867 and a paper on pauper housing in 1861.⁶³ James Hawkings of Stepney Union wrote a work on the education of the deaf and dumb, and another on the tighter public control of charities for the poor.⁶⁴ These reflected the influence of the poor law, and would have endeared their writers neither to those in the medical profession whose concerns were the provision of services to individual patients, nor those wishing to strengthen the humanitarian image of the profession by attacking the new poor law. The effect of internal politics and poor law reform on the perceptions of the poor law medical service is beyond the scope of this thesis; but such politics no doubt contributed to the reputation of the poor law medical officers as second rate.

County Asylum Medical Superintendents

⁶³Hints to Certifying Surgeons under the Factory Acts (1867); "Homes for the Working Class", (Manchester [?]: n.p. 1861).

⁶⁴On the Desirability of National Education for the Deaf and Dumb Poor, (London: Longmans, Green and Co, 1868); and Are the Beneficent Uses of Public Institutions adequately Supported by their Present Organisation?, (London: Longmans, Green, 1872).

The autonomous decision-making of the poor law medical officers appears more defensible when their background is compared with that of medical superintendents in county asylums and madhouses, the presumed medical specialists of the insanity business. They, like the poor law medical officers, were unlikely to have the benefit of formal training in lunacy-related matters. Alexander Morison had instituted a course of lectures in 1823, John Conolly in 1842, and Thomas Laycock in the 1860s; but these courses were few and far between. They were also badly subscribed. Morison estimated that his course, over twenty years, attracted a total of little more than 100 students.⁶⁵ It was not until 1885 that a certificate course in psychological medicine was introduced by the General Medical Council, and no one applied for the first examination.⁶⁶ Training was by experience within asylums themselves.

The medical officers of county asylums and private madhouses developed their own professional organization, like their poor law counterparts. The Association of Medical Officers of Asylums and Hospitals for the Insane (AMOAHI) was formed in 1841, the name changing to the Medico-Psychological Association in 1865. The organization did induce some spirit of identity among its members. In 1852, it began to publish the Journal of Mental Science, edited by John Bucknill, the superintendent of the Devon County Asylum. The journal not only fostered a sense of community among the asylum doctors; it also as time passed increasingly provided the asylum doctors with a vision of their own professionalism. Richard Russell argues that where the Journal had directed itself to a variety of asylum employees, its audience changed over time to exclude non-professional medical staff; and where its original orientation had been practical, including even cleaning tips, it grew into a theoretical journal

⁶⁵Regarding enrolments, v. Andrew Scull, "Mad-doctors and Magistrates: English Psychiatry's struggle for professional autonomy in the nineteenth century", 17 Archives Européen de Sociologie (1976) 279.

⁶⁶Richard Russell, "The Lunacy Profession and its staff in the second half of the nineteenth century", in The Anatomy of Madness, vol. III, ed. Bynum, Porter and Shepherd, (London: Tavistock, 1988) at 302.

oriented towards medicine.⁶⁷

The effectiveness of the AMOAHI beyond its membership is much more questionable. Trevor Turner argues that "the most obvious feature of the psychiatric specialty, ... is the lack of any definite impact, in terms of seriously influencing public attitudes towards mental illness,"⁶⁸ and that the first real lobbying success of the association was the superannuation campaign in 1910. Before that time, the asylum doctors had ridden on the coat-tails of the success of the British Medical Association and the broader profession. And the relationship of the mad doctors with the remainder of the profession was itself somewhat dubious, as Turner points out:

Overall, then, attitudes towards members of the MPA, echoing through that period, were those of suspicion and denigration. Alienists were corrupt or mad or incompetent or bureaucrats, or any combination thereof. They had 'failed to stay the progress of the disease by the exercise of their art' and had 'but partially succeeded in bringing their specialty within the pale of medical science'.⁶⁹

One respected physician was quoted in the Journal of Psychological Medicine, the major competitor of the Journal of Mental Science, as saying "that he should consider it less degrading to keep a public-house than an asylum".⁷⁰

Richard Russell shares this general assessment in his study of the West Riding

⁶⁷"The Lunacy Profession and its staff in the second half of the nineteenth century", supra, at 300 f.

⁶⁸"'Not worth powder and shot': the public profile of the Medico-Psychological Association, c. 1851-1914", in 150 Years of British Psychiatry, 1841-1991, ed. Berrios and Freeman, (London: Gaskell, 1991) 3 at 14.

⁶⁹"Not worth powder and shot", supra, at 8. The quotations are from J.B. Tuke, "Lunatics as patients not prisoners", 25 Nineteenth Century (1889) 595.

⁷⁰5 Journal of Psychological Medicine (1852) 160; quoted in Trevor Turner, "Not worth powder and shot", supra, at 6.

county asylum in the second half of the nineteenth century:

In the face of this it needs to be asked how the medical profession operating in this area was able to survive. Certainly it could not be said to have flourished in the latter part of the century⁷¹

This is perhaps a little harsh, at least as far as Leicestershire is concerned. The superintendent of the Leicestershire and Rutland Asylum received salary and wages of £300 per annum in 1851,⁷² suggesting a certain level of professional respect.

Relations between the asylum and the other administrative organs were a delicate balance. Regarding the workhouse, the asylum could be highly critical. In some cases, it was seen as a point on the slide from respectability, to vice, to lunacy. Through the 1850s, however, asylum inmates were released into the care of the workhouse authorities relatively cheerfully, as is shown by the case of John Finch in 1855:

This is a case of dementia arising most probably from the effects of poverty and old age. The dementia which is not complete appears to be the primary form of mental disorder. From the dirty + neglected state of his person + clothing there is every reason to imagine that he must have been destitute of the commonest necessities of life. The case of this childish old man might probably be consigned to the authorities of the workhouse with advantage.⁷³

⁷¹"The Lunacy Profession and its staff in the second half of the nineteenth century", *supra*, at 297.

⁷²Third Annual Report of the United Committee of Visitors of the Leicestershire and Rutland Asylum (1851), LRO DE 3533/13. By comparison, the matron received approximately £52, the chaplain £42, the keepers, an average of about £13, and nurses, an average of about £15. Subsequent annual reports reveal only total staffing costs, not the breakdown of salaries for each individual.

⁷³Adm. 16 May 1855. Case book LRO DE 3533/187. The transfer was eventually completed, following the administration of a wholesome diet, on 18 July 1855:

The asylum visitors book also contains messages of thanks from guardians to Superintendent Buck for his hospitality during the inspection.⁷⁴ Good relations with the guardians generally and particularly on these visits when they might be accompanied by one of their medical officers, were a matter of practical necessity. At issue was not merely the desire to keep existing patients until they might appropriately be released, but also to ensure prompt removal of curable cases to the asylum. Given that the asylum was never able to care for all the insane of the counties, good relations also ensured the removal to the workhouse of cases such as Mr. Finch, to allow the admission of a different and possibly curable case.

The members of the association did not form strong natural alliances with the central authorities. The poor law central authorities had little to do with county asylums and private madhouses, and thus little to do with the association. They did hire Dr. Hitch, the association's president, to report on the Leicester workhouse and county asylum in 1844, however, suggesting they were not completely adverse to the association's perspective. The Lunacy Commission was ambiguous on the role of medical expertise in the asylum business. The commission itself was composed of medical men, barristers, and lay members, and visits were required to include one medical man and one barrister. Shaftesbury was not without his quirks where lunacy was concerned. Sometimes these opinions were in conflict with the interests of the medical profession. Thus Shaftesbury tended to view moral treatment, not in terms of scientific or medical theory, but more pragmatically, in terms of regimen.

This case appearing somewhat manageable by the care
+ attention of attendants in the Insane Ward at the
Union Ho. he was removed to that institution today.

See also William Worrad (adm. 2 September 1853, Case book LRO DE 3533/187); Eliza Woodcock (adm. 21 February 1853, case book LRO DE 3533/187); and Elizabeth Fowkes (adm. 15 Dec 1849, case book LRO DE 3533/186), also discharged into the care of the poor law authorities.

⁷⁴Minute book of Visitors of Leicestershire and Rutland County Lunatic Asylum, 1851-94. LRO DE3533/8. Note speculation supra that this book may not record all visits.

The asylum doctors were not above challenging legal interpretations of the commissioners. Thus John Bucknill in 1858 argued in the Journal of Mental Science that the view of the commissioners that admission documents to the asylum ought to be sufficiently complete as to convince a subsequent reader of the insanity of the subject was simply incorrect: he instead took the position that "it would be difficult, in a court of law, to impugn on this ground, the validity of an admission paper, in which the medical man had stated any two facts observed by himself, as circumstances which had tended to produce in his mind the opinion that the patient was insane."⁷⁵ Such a view would have considerably curtailed the powers of the commissioners. Such challenges seem to have been relatively rare, but that may reflect the legal realities of the commissioners's situation: as has been shown in the discussion of the legislative structures, the commissioners possessed minimal power relating to county asylums, and thus posed a minimal threat to the asylum superintendents.

The Paupers

This chapter closes with a brief discussion of the role of paupers in the administrative framework. The preceding analysis risks focusing too closely on the administrative authorities. Such a focus would render apposite the following comment of F.M.L. Thompson regarding the use of social control theory by historians:

In many ways this is a curious view, placing the working classes perpetually on the receiving end of outside forces and influences, and portraying them as so much putty in the hands of a masterful and scheming bourgeoisie, a remote and powerful state, and a set of technological imperatives. It allows little for the possibility that the working classes themselves generated their own values and attitudes suited to the requirements of life in an industrial society, and imposed their own forms on middle-class institutions.⁷⁶

⁷⁵"The Medical Certificates of Admission Papers", 4 Journal of Mental Science, (1858) 312 at 312. Emphasis in original.

⁷⁶"Social Control in Victorian Britain", 34 Economic History Review second series, (1981) 189 at 189. For a similar point, v. Michael Ignatieff, "Total Institutions and Working Classes", 15 History Workshop Journal (1983) 167 at 169 ff.

Consideration of the motives of the inmates and their families is difficult, because they appear themselves to have left no documentation whatsoever. The best that remains are comments in documents compiled and organized by the very administrators whose perceptions are already central to the historical account, and from which Thompson urges departure. The following remarks are therefore presented with considerable hesitancy. The patient histories contained in the asylum case books have been relied on most in what follows. In the next chapter, the specific administrative context of those documents will be discussed. It will be argued that facts are presented to show the asylum in the best possible light, and to present a justification of the committal of the pauper. To wrench these facts from this structure, isolate them here, and impute motives to the paupers they describe is methodologically highly dubious. The alternative in the instant context, however, is to say nothing about the motives of the paupers at all, to condemn the pauper to a passivity through silence. Such a response may be methodologically pure, but it is not intellectually satisfying.

The image of the insane poor as helpless is based in part in the nineteenth century itself. Andrew Scull cites a litany of such descriptions: the inmates were "worn-out old dements, imbeciles and aged people", "contorted harmless specimens of humanity ... senile dotards and hemiplegic wrecks".⁷⁷ This may well have been true for many. The fact that only about half of those in the asylum appear to have been involved in any employment is consistent with such a view. The portrayal is also consistent with the paternalist justifications for the asylum, however: the asylum legislation was successful in part because of its image as a reform which "vividly involved the helpless",⁷⁸ and asylum advocates would naturally emphasize that aspect. The county asylum legislation at best makes the pauper invisible. It was the poor law officers and the Justices who were portrayed as the active parts of the admission system; the pauper lunatic was merely acted upon.

⁷⁷The Most Solitary of Afflictions: Madness and Society in Britain, 1700-1900, (New Haven: Yale UP, 1993) at 370 ff., esp. in notes 99 to 114.

⁷⁸David Roberts, Paternalism in Early Victorian England, (London: Croom Helm, 1979) at 206.

The case of David Perkins provides a countervailing image to that of the passive and inactive pauper: asylum admission procedures were commenced on him when he hurled a brick through the window of a local Justice's house. Perkins was at this time, according to the case book, suffering from melancholia caused "chiefly from a want of Employment, and its concomitant want of food."⁷⁹

The Perkins case provides an enticing image, but the documents provide insufficient evidence to make claims as to what exactly Perkins thought he was doing, or what if anything he wanted to induce the Justice to do. The case books are more forthcoming about Francis Kirk, whose discharge note reads as follows:

There being no doubt but that this poor woman's symptoms of irritability were really assumed for the sake of getting into the asylum, she was this day discharged Relieved.⁸⁰

It is rare that such the documents were so clear; usually, the motivations of the patient are left to surmise. Thus Mary Matts apparently left the asylum with regret in 1845, "having frequently expressed a wish to remain with us in the capacity of a household servant."⁸¹ Jane Roby "returned home quite recovered, often expressing a wish to return and remain with us."⁸² William Burton was "pleased to find himself once more under the protection of the asylum."⁸³ Eliza Hardwick's readmission was

⁷⁹See case book, LRO DE 3533/186. Adm. 24 October 1851.

⁸⁰Adm. 29 November 1856. Case book LRO DE 3533/188. See also the case of William Lord, admitted 25 January 1864. Kirk's ruse, if ruse it was, was not unsuccessful, as the asylum kept her for two and one half months (thus through much of the winter) notwithstanding that her counterfeit was suspected at the time of her admission.

⁸¹adm. 17 May 45. Case book LRO DE 3533/185.

⁸²Adm. 30 January 1845. Case book LRO DE 3533/185.

⁸³Adm. 27 July 1853. Case book DE 3533/187.

triggered after she "had been up to the asylum gates to beg a meal."⁸⁴

Cases of this sort are not limited to persons living in the community. The case books also show manipulation of the system by paupers wishing to be removed to the asylum from the workhouse. Robert Capenhurst, admitted to the asylum in 1868, provides a clear example:

He appears to have passed the greater portion of his life in the workhouse. It is stated in his certificate that he has attempted on several occasions to commit suicide. He says he tried it once in order to be removed from the workhouse.⁸⁵

A similar speculation can be made of William Thompson, who in the workhouse was "a refractory and troublesome pauper, but the officer who conveyed him from thence to Leicester informed me that when he knew his destination he became tranquil and quite cheerful. ... Within an hour of his admission he was usefully employed."⁸⁶

Thompson, Burton, Hardwick and Kirk were all re-admissions, and therefore knew precisely what to expect at the asylum.

There is much in asylum life which paupers might have found attractive. A brass band organized among patients and staff in 1854 survived through the 1860s.⁸⁷ Periodic excursions were made, to the Leicester Forest, to the Crystal Palace in London, to the circus, and to agricultural fairs. The Leicester Dramatic society presented theatrical entertainment. There were weekly dances at which the sexes were permitted to mix, and in the summer, bowls and quoits were played on the asylum lawn. Employment, mainly gardening or farming for the men and laundry work and

⁸⁴Adm. 22 November 1854. Case book LRO DE 3533/187.

⁸⁵Admitted 23 March 1868. Case book LRO DE 3533/191.

⁸⁶Adm. 3 September 1853. Case book LRO DE 3533/187.

⁸⁷Re formation, see Superintendent's Journal, 9 May 1854, LRO DE 3533/83.

sewing for the women, was for six hours per day. Airing grounds were to be accessible to the patients at least six hours per day.⁸⁸ Anecdotal evidence would suggest a significant degree of freedom enjoyed by the inmates of the institution. In 1866, forty-five men and twenty-two women were permitted to walk beyond the asylum unattended, being roughly seventeen per cent of the asylum population at that time.⁸⁹ And when, in February 1864, an aged patient was assaulted on a road near the asylum and robbed of twenty-five shillings, the response of the asylum management was not to tighten supervision and restrict patients' movement further, but rather to improve the street lighting along the road.⁹⁰ Escape does not seem to have been an impossible proposition even for those patients relatively closely confined: one boy managed to escape simply by jumping over the wall of the airing court.⁹¹ It is thus perhaps a measure of the satisfaction of the inmates that the superintendent's journal notes only twenty-six escapes or attempted escapes from 1853 to 1870.⁹²

This image of desirability is re-enforced by the life which was faced by some of the insane poor prior to their admission to the asylum. Consider Harriet Burbidge, for example, whose "diminutive appearance has led to her being exhibited as a Talking Monkey about the country,"⁹³ or Elizabeth Windram, who suffered from puerperal mania and whose "recovery in the narrow confined yard in which she lived was jeopardized by the fact that the neighbours assembled in large numbers to hear the poor woman's cries,"⁹⁴ or Richard Wright who prior to his admission was "subjected

⁸⁸1849 rules, section 8. LRO DE 662/27.

⁸⁹See 1866 annual report.

⁹⁰See Superintendent's Journal, 10 February 1864, LRO DE 3533/84.

⁹¹see superintendent's journal, November 1853, LRO DE 3533/83.

⁹²See LRO DE 3533/83 and /84. Three of these were by the same person, in a one month period in May, 1859.

⁹³Case book, adm. 20 February 1864. LRO DE 3533/190.

⁹⁴Case book, adm. 14 July 1866. LRO DE 3533/191.

to mechanical restraint of a severe character, and ha[d] abrasion of skin upon both wrists and ankles.⁹⁵ Poverty was considered by the asylum staff to be one of the chief causes of madness, and striking numbers of patients admitted were shown in the case books as underfed and clad in little more than rags. To these people, a life of farm work, sewing, quoits on the lawn and dances every week coupled with steady food must have appeared almost idyllic.

This is consistent with the way in which the asylum chose to portray itself. In the 1862 medical report to the annual meeting of the asylum, Buck stated:

There is now but little reluctance felt by the poor in availing themselves of the advantages of your asylum; so that when, in the natural progress of organic disease, some mental disturbance is revealed, admission is more readily sought than heretofore; and we are bound to add, that this is a state of things which in our opinion seems not unlikely to increase.⁹⁶

When patients were eventually transferred to the new borough asylum in 1869, Buck reported, "Many of the older patients appeared to feel very much their removal from an Asylum which they had long considered their home."⁹⁷

An implied alliance can perhaps be seen between relatively able paupers actively pursuing admission, and the asylum staff. An internal economy reduced asylum costs. From May 1845 to March 1846, George Harrison, a tailor committed as a pauper, had worked constructing clothing, and apparently saved the institution about ten pounds.⁹⁸ By the late 1860s, all clothing and shoes were made in the

⁹⁵v. Case Book, DE 3533/191.

⁹⁶Superintendent's Journal, 20 January 1862. LRO DE 3533/84.

⁹⁷see 1869 annual report.

⁹⁸adm. 10 May 1845. See comments in case book, LRO DE 3533/185.

asylum.⁹⁹ The farm turned a profit of about £500 p.a. in 1870,¹⁰⁰ up from £211 in 1865. By comparison, in 1865, income from unions for maintenance charges totalled £7284. Occasionally, some of this benefit reverted to the patients. Thus Thomas Bettoney, a pauper, was apparently paid £2 for the work he performed building the new workrooms,¹⁰¹ and Buck encouraged the committee of visitors in 1866 to give "some pecuniary acknowledgement" to Mr. Hale, a charity patient, for the work he performed while a patient.¹⁰² Consistent with the practice in other poor law institutions, payment was more usually in the form of increased rations, and the dietary approved refers specifically to increased rations for those employed.¹⁰³

The idea of feigning lunacy was rarely discussed explicitly in the documents of either the poor law authorities or the Lunacy Commission. The concept was well-known in the criminal context of the insanity defense, however, and it was discussed in the context of the building of Broadmoor, the asylum for criminal lunatics, by Dr. Charles Hood, the resident physician at Bethlem:

[2424.] ... The atmosphere of a lunatic asylum, and the character of the treatment that must necessarily be adopted there, cannot possibly savour in any way of the discipline that is necessary in a convict prison. I therefore anticipate that the difficulties will be much increased when the asylum is opened; at any rate they must continue so long as the convicts are removed during their penal servitude to a place where everything is easy and comfortable.

2425. You think that they will feign lunacy to deceive the authorities? --Yes.

⁹⁹v. 1866 annual report.

¹⁰⁰See 1870 annual report.

¹⁰¹See case book, LRO DE 3533/187. Adm. 28 September 1855.

¹⁰²See superintendent's journal, 10 January 1866, LRO DE 3533/84.

¹⁰³Regarding the reliance of workhouses on pauper labour, v. M.A. Crowther, The Workhouse System 1834-1929, supra, at chapter 8 and particularly at pp. 196-201.

2426. Is it very easy to distinguish between feigned lunacy and real lunacy? -- I think time is the best criterion.¹⁰⁴

The poor law authorities had been aware under the old poor law of "clever paupers", who used a variety of ruses to collect double rations. They were no doubt aware of the possibility of a pauper feigning madness. There is little reason to believe they would have been sympathetic to such tactics, and poor law medical officers may in some cases have delayed the commencement of the admission process on the basis that "time is the best criterion."

The argument that paupers were manipulating the system to obtain asylum admission views the asylum in its best light. A contrary image is equally defensible from the documents. The apparent openness of the asylum is not easily reconciled with the fact that the rules precluded anyone from taking letters to or from patients without the leave of the asylum superintendent.¹⁰⁵ The asylum was increasing in size, the average number of patients in the year increasing from 182 in 1849 to 484 in 1869, before falling back to 411 in 1870 with the opening of the borough asylum. In 1867 the asylum was housing about seventy more than the 342 it was designed for. A temporary building was constructed to house part of the increase, but crowded conditions remained. The superintendent's journal, particularly in the 1850s, contains periodic complaints about cesspools fouling the drinking water, and there also occurred bouts of diarrhoea, smallpox, influenza, and typhoid.

In addition, the benefits of entertainment and the occupation of work in the asylum did not fall on all patients equally. On 28 March 1860, only seventy of the men and 104 of the women were employed, being roughly forty-one per cent of the

¹⁰⁴Testimony of Dr. Charles Hood (resident physician, Bethlam Hospital) to the Select Committee on Lunatics, PP 1859 1st Session (204) III 75.

¹⁰⁵Leicestershire and Rutland Lunatic Asylum, "Rules for the General Management of the Institution", *supra*, at section 85; Leicestershire and Rutland Lunatic Asylum, "Rules for the General Management of the Institution", 1873, LRO DG 24/752/2, at section 102.

men and fifty-five per cent of the women.¹⁰⁶ One is left to wonder how the remainder filled their time.

It is difficult to compare conditions in the workhouse with those of the asylum. There was no attempt to portray the workhouses as attractive: quoits on the lawn were simply not a matter of discussion. Workhouses were supposed to be unpleasant; that was the whole point of the workhouse test. How much of this is a matter of competing mythologies is an interesting question. Certainly the workhouse was unlikely to enjoy the beautiful views and large airing grounds which were at least part of the asylum mythology, but as for the work required in the two institutions, particularly for women, it is difficult to see that the sewing and laundry required in the workhouse would be that much different a workload from that of the asylum. Certainly the workhouse might be overcrowded, as was the case in Leicester, particularly in the late 1840s, but so was the asylum.

There is evidence that some people did not want to leave the workhouse. When an outbreak of fever in the workhouse induced the Ashby guardians to offer outdoor relief to forty-four inmates in 1842, only thirty-seven took up the offer. Notwithstanding that the outbreak was serious-- at the time of the offer of outdoor relief, forty inmates were ill, and five people eventually died-- seven of the forty-four preferred to remain in the workhouse than accept payment to live outside it.¹⁰⁷

¹⁰⁶On 28 March 1860, thirty-six men were employed on the asylum farm, (a number which peaked at forty on 26 September, being harvest, and was as low as three on 26 December, during winter) sixteen employed in the house and garden, eight in workrooms, and ten assisting on the wards. On that same day, forty-four women were employed in workrooms and in sewing and mending, thirty-seven in the laundry, five in housework and in the kitchen, and eighteen on the wards. On the first of January that year, the asylum had contained 170 men and 188 women: Twelfth Annual Report of the United Committee of Visitors of the Leicestershire and Rutland Lunatic Asylum, (1860), LRO DE 3533/13, at table 4.

¹⁰⁷Minute book, Ashby-de-la-Zouche Union, 9 February 1842. LRO G/1/8a/1. This does not appear to be a situation unique to Ashby. The indices to the correspondence between the poor law central authorities and the local boards of guardians show a steady trickle of queries as to what to do when people refused to leave the workhouse, generally in cases where they was an offer of work: v. PRO

A comparison of the two quantifiable categories of dietary and visiting rights do not suggest that life in the asylum would have been significantly better than life in the Leicester Workhouse.¹⁰⁸ The dietary of insane inmates of the workhouse was under the control of the medical officer. The discussion of workhouse dietaries in 1867 cites "universal opinion" that the insane were to receive the enhanced diet of the aged and infirm,¹⁰⁹ and it seems likely that they were in general in receipt of this dietary well before this time. Neither workhouse nor asylum dietary is particularly appealing. Dinners at the asylum look by and large more palatable, but if it is the actual amount of food which is at issue, breakfasts and suppers were more generous in the workhouse.

As for visiting hours, the Leicester workhouse rules were clearly more lenient, again assuming that the insane received the same treatment as the old and infirm. These inmates could be visited on two afternoons per week, and if they wished to see anyone, the master or matron of the workhouse was under an obligation to send for the individual.¹¹⁰ By comparison, asylum visits were limited to once per fortnight.¹¹¹ Visits might be much more practical for those living in the local workhouse than in the county asylum, simply by reason of distance. Some parts of Leicestershire were more than thirty miles from the asylum, a distance which would pose real practical problems for those wishing to visit persons confined.

Along with the evidence of highly unpleasant conditions of the poor living outside institutions, one must consider the outdoor relief which was afforded to the insane. Thus a number of persons categorized as paupers in the asylum had nurses

MH 15.

¹⁰⁸A copy of the dietaries for the two institutions is contained as appendix 3.

¹⁰⁹Twentieth Annual Report of the Poor Law Board, PP 1867-8 [4039] xxxiii 1 at app. 2. The quoted material is at page 60.

¹¹⁰Minute Book, Leicester Union, 19 January 1869. LRO G/12/8a/13.

¹¹¹Leicestershire and Rutland Lunatic Asylum, "Rules for the General Management of the Institution", supra, at rule 13.

prior to their admission.¹¹² It is difficult to believe that they all paid for these themselves. Instead, they were presumably provided by the unions, suggesting that some of the insane in the community may have enjoyed a relatively decent life.¹¹³

Consistent with this view, a number of patients clearly did not want to be admitted into the asylum. Prior to his admission, Francis Philpott apparently said to his father "I am the strongest man in Leicester. I will knock you and Mother down if you go to fetch anyone to me."¹¹⁴ Sarah Homes "had taken a strong dislike to the person who brought her [to the asylum], and treated him with most unmitigated abuse."¹¹⁵ Catherine Conroy was "very full of complaints at being kept here. She says she will bring actions against all the guardians for allowing her to be deprived of her liberty."¹¹⁶ And when Frances Garfoot discovered it was proposed that he would be sent to the asylum, he ran away from home.¹¹⁷ Again, both Homes and Garfoot were readmissions, so they acted in the knowledge of what the asylum was actually about. Thus the manipulation of the system by the paupers could operate in favour of, or against asylum admission.

Similarly, notwithstanding Buck's optimistic comment about the willingness of people to send their family members to the asylum, there are indications that the poor were loathe to commit their relatives. The removal of Mary Carpenter from

¹¹²See for example Eliza Williams, adm. 14 July 1868, in admission documents, LRO DE 3533/229. See also comments in notes on PRO MH 12.

¹¹³This is not necessarily to be understood as opposed to medical opinion. Thus one of the medical certificates relating to Caroline Barfoot in the mid-1840's stated that she was a harmless idiot, and would be better under the care of her Mother at home than in any establishment where numbers are congregated together: quoted in letter, Poor Law Commissioners to Leicester Guardians, 15 December 1843. LRO G/12/57d/1.

¹¹⁴Adm. 19 December 1868. Adm. documents LRO DE 3533/229.

¹¹⁵adm. 25 January 1853. Case book LRO DE 3533/187.

¹¹⁶adm. 16 May 1868. Case book LRO DE 3533/192.

¹¹⁷Adm. 30 August 1847. Case book LRO DE 3533/185.

Westminster workhouse to the asylum in 1866 prompted a complaint to the Poor Law Board, reading in part as follows:

The order was made without any intimation to the board or Parish officers and without any inquiry or intimation to the friends or relatives of the pauper who were residing in the Parish and who would as the board is informed rather have taken her from the Workhouse than submit to her being sent to a Lunatic Asylum.¹¹⁸

Broader discontent can be seen in Leicester in 1867, when a relieving officer was prevented by a mob from executing an order removing a pauper to Birmingham Asylum. The pauper in this case was eventually released into his wife's custody.¹¹⁹

The implication is that the poor were far from convinced of the benefits of the asylum. Scull asserts that changed economic circumstances made it increasingly difficult for families to care for their unemployed and unemployable relations at home.¹²⁰ This is a reasonable inference. Numbers of able-bodied men in the workhouse on 1 January, when there was little agricultural work to be had, tended to be roughly twice the numbers on 1 July.¹²¹ This would suggest that poor people had little excess income to take care of themselves, let alone their incapacitated relations. A resort to the poor law of lunacy may well have been imposed by economic

¹¹⁸PRO MH/51/768.

¹¹⁹Cited in Kathryn M. Thompson, "The Leicester Poor Law Union, 1836 - 71", supra, at 232.

¹²⁰Most Solitary of Afflictions, supra, at 332 f.

¹²¹See appendix 1. The figures for women are less extreme, January figures being close to fifty per cent higher than July figures. Out relief also increased, although it is difficult to assess how much of those increases were caused by unemployment, as an "able-bodied" person on outdoor relief might nonetheless be relieved on account of illness.

necessity.¹²² In this situation, a finding of lunacy would have had particular attractions. Committal to the asylum did not involve committal of the entire family of the pauper, as regular admission to the workhouse might. Instead, if the lunatic were the father, the remainder of the family was eligible for outdoor relief.¹²³ If the lunatic were another family member, the asylum admission would at least not result in the institutionalization of the entire family, as indoor relief to the able-bodied would, at least in theory.

The involvement of paupers in the operation of the system is both tantalizing and frustrating. The paupers themselves left virtually no documents. The documents left by the officials admit of vastly divergent explanation. The following comment in the case book regarding Eliza Mosebey is typical of many asylum patients: "she was most grateful for the kindness she had received, and as soon as she was strong enough to work employed the whole of her time for the benefit of the Institution."¹²⁴ Was this report coloured by a desire to portray the asylum in a positive light? Was the desire for work motivated by a desire to make herself indispensable to the asylum, and thus extend her stay? Was it rather to provide self-respect to a woman admitted to a poor law institution? As work was a part of moral management, was it to show that she had been cured of her lunacy, and thus to promote her early release? Or was it simply because she was bored? The documents do not provide clear answers.

¹²²The quantitative figures in appendix 1 may provide a counter-indication of a strict cause and effect relationship, however. The increase in pauper insane, both institutionalized and in total, bears no obvious correlation to the rate of pauperism in general.

¹²³Such relief was to be provided to the wife "as if she were a widow": 7 & 8 Vict., c. 101, s. 25.

¹²⁴LRO DE/3533/186, adm. 07 May 1851.

Chapter 5: Local Administration: The Creation of Coherence among Misfits

In previous chapters, it has been argued that the focus of decision-making was at the local level, resting with local Justices of the Peace, and local poor law officials. In this chapter, surviving documents regarding the processes of confinement of paupers in the Leicestershire and Rutland County Lunatic Asylum will be examined, to clarify how those decisions were made. In addition, such few documents as remain regarding categorization of the insane in the workhouse will be examined.

Inevitably, this study is confined by the documents available. There were essentially three options for the care of insane paupers: outdoor relief, the workhouse, and the asylum.¹ For the first two of these, little documentation remains about individual decisions, although some general insights may be gained by implication of asylum admission documents, and through the occasional reference in minute books of guardians and correspondence with central authorities. Much better documentation exists for those admitted to the county asylum, in the form both of admission documents and case books.

¹Pauper lunatics could also be sent to private madhouses, in the event that the county asylum was full. This was particularly significant in the Borough of Leicester, which by statute had a right to only twenty-five places in the county asylum. In practice, for most of the period, the asylum held considerably more for an increased per capita fee, but Leicester also sent some insane paupers to private madhouses. It would appear from the documents that the criteria for the sending of an individual to a private madhouse were similar to those for sending to the county asylum. Mary King was to be "sent to the County Asylum if there be room, and in not to the Camberwell Asylum [a private madhouse].": Minutes of Leicester Board of Guardians, 15 December 1846, LRO G/12/8a/4. See similar comments at, e.g., 29 May 1849 and 21 August 1849, LRO G/12/8a/5; 08 June 1858 and 12 April 1859, LRO G/12/8a/9; 02 July 1861, 07 October 1862, and 18 June 1867, LRO G/12/8a/10. County asylums in Derby and Lincoln were also used to accommodate this overflow: Minutes of Leicester Board of Guardians, 19 November 1861 and 21 October 1862, LRO G/12/8a/10.

Asylum case books survive from 1845 into the twentieth century. Those up to 1870 have been examined. The format of the case books changed in 1856. While much the same information was collected under both formats, the re-phrasing is interesting. Both formats provided a series of short-answer questions.² Where the earlier book asked about specific physical conditions such as pregnancy, fits, or accident and epilepsy, the later version asked for the assigned causes of the insanity, to be categorized as moral, physical and hereditary. Under the later version, staff were also required to assess the "character" of the inmate.³ Both versions allowed a large and full page for treatment notes.

The admission documents were prescribed by statute. For paupers and persons found wandering at large, they commenced with the certificate signed by the admitting Justice.⁴ Next was a section with personal information compiled by the relieving officer: name, age, and the like. Interestingly for this study, purported cause of insanity, how long insane, and whether dangerous are included in these questions.⁵

Finally, there was the certificate signed by a medical practitioner-- almost always the poor law medical officer of the union in which the pauper was resident, when it became legal for these officers to sign the forms in 1853.

The form of this certificate was amended under the 1853 act to require explicitly the medical officer to identify those facts observed by himself indicating

²A list of these questions is contained in appendix 4.

³v. Case Book, LRO DE 3533/188 and subsequent case books.

⁴Or until 1863, two Justices, if the individual was admitted as wandering or not under proper care and control. The statutory admission procedures allowed admission to the asylum directly by the relieving officer and an officiating clergyman in exceptional cases. In these cases, which constituted roughly a quarter of the admissions in the 1860's, the documents would be signed by these officers instead of Justices.

⁵A copy of the printed questions to which the relieving officer was to respond are attached as appendix 4.

insanity, and also those facts communicated to him by others.⁶ The source of these communicated facts was also identified, so this latter paragraph has been particularly useful in reconstructing where people were admitted from: a domestic setting, a workhouse, or apprehended wandering at large. These parts of the Leicester Asylum documents were relatively completely filled out in the 1860s. This may have been due at least in part to the fastidiousness of Dr. Buck, the asylum superintendent, who had included this information in detail when completing the forms prior to his appointment as medical superintendent in 1853, even though the older forms which did not provide space for this information. At least four times in the 1860s, the asylum refused to admit persons on the basis of inadequate documentation.⁷ Other indications are that the Lunacy Commissioners were becoming increasingly concerned at the completeness of these details.⁸

The form for the admission of an independent (including charity) patient was largely similar, except that no order of a Justice was required. The personal information was completed by the person admitting the patient, and there were two medical reports, not one. Up to the early 1860s, the contract between the asylum and the person admitting a private or charity patient was also included, allowing determination of who fell into which category, and just how much was charged to independent patients. After this time, these contracts were not routinely included leaving it a matter of speculation which independent patients were admitted by the charity.

⁶16 & 17 Vict. c. 97, sch. F(3).

⁷William Hunter was refused admission in October 1869: see superintendent's Journal, 10 November 1869, LRO DE 3533/84. Robert Bayfield and a Mr. Jackson were also refused in July 1865: see Superintendent's Journal, 12 July 1865, LRO DE 3533/84. John Harris was discharged three days following admission because of inadequate certificates in 1865: see Case Book, LRO DE 3533/191, adm. 22 November 1865. Unfortunately, none of these entries detail the specific deficiencies in the documents.

⁸See, for example, the comments of John Bucknill, head of the Devon County Asylum, in "The Medical Certificates of Admission Papers", 4 Journal of Mental Science (1858) 312 at 312-313.

A reasonably good number of admission documents survive, although there are major gaps in their preservation. None exist prior to 1851; and 1856 to 1860 and 1871 to 1880 are missing.

Between 1861 and 1865, 406 people were admitted to the Leicester and Rutland County Lunatic Asylum. Of these, 336 (eighty-three per cent) were classed as paupers, sixty-four (sixteen per cent) as private patients, including those admitted through the charity, and six (one per cent) were criminals.⁹ Of the paupers, 181 (fifty-four per cent) were women.¹⁰

Appendix 2 organizes the pauper admission documents into three categories, according to the admission route of the individual into the asylum. Persons admitted because they were found "wandering at large" or "not under proper care and control" or "cruelly treated or neglected by any relative or other person having the care or charge" of them were admitted pursuant to a separate section of the act.¹¹ Members of this class were not necessarily paupers, although classed as such in the asylum statistics. While admitted on pauper forms, these were amended to reflect their status, making them identifiable. The recording of facts communicated to the medical officer on the remaining forms record the source of the information. These have been categorized according to whether information was communicated by a family member or friend of the inmate, in which case admission directly to the asylum from a domestic setting has been assumed, or instead by a member of the workhouse staff, in which case admission is taken as being from the workhouse. In all, 293 people can be classed with reasonable certainty into one of these groups, being thirty-seven

⁹Basic statistical information regarding these cases is contained in appendix 2. The cases studied were cases 2237 through 2642 in the asylum casebooks, LRO DE 3533/189-191. The annual reports show 409 admissions in this period, presumably including the three persons discharged immediately owing to insufficient documentation, noted above.

¹⁰This is marginally higher than for the country as a whole. The annual reports of the Lunacy Commission indicate that of 32693 admissions from 1861 to 1865 inclusive, 16406 (fifty per cent) were women.

¹¹16 & 17 Vict., c. 97, s. 68.

wanderers, 177 persons from domestic settings, and seventy-nine from workhouses.¹²

Of the remaining forty-three paupers, admission documents exist for thirty-three. Of these, there was insufficient evidence to allow categorization in thirty-one cases. In two cases, patients were admitted from other institutions: the Leicester Infirmary and the Northampton Infirmary, both charitable hospitals. These thirty-three cases have been included in the statistical summary as "miscellaneous". In addition, no original admission documents of any sort were on file for ten paupers, transferred to the asylum from a private madhouse in 1865. As no information is available about them at all, they are excluded from the statistical survey.

To read the statute, one would expect poor law medical officers and relieving officers to be actively pursuing lunatics in their jurisdictions. This is a misleading picture: as regards the needs of individual paupers, the poor law was generally responsive rather than proactive. This was equally true of the poor law medical service: the sick person approached the poor law doctor for treatment, otherwise the poor law doctor would not generally intervene. This basic pattern carried over into the lunacy side of the poor law, and thus to domestic admissions. The admission documents to the asylum typically reflected only one examination of the individual by the medical officer. It would appear that the lunatic person lived in the community until the poor law medic was approached by someone in the community to become involved. This might go so far as to require that the apparently insane person be brought to the workhouse, town hall or police station for the required medical examination,¹³ re-enforcing the poor law associations of asylum care.

¹²A small number of these people were transferred to the Leicester Asylum from other asylums. Generally, their admission documents to that original asylum have been included with their transfer documents to Leicester, and they have been classified according to these earlier admission documents, even though these documents may have been signed prior to the 1861 commencement of my statistics. In ten cases, copies of these original admission documents were not on file: see below.

¹³Examinations were held at the town hall in Leicester, workhouses in Melton Mowbray, Lutterworth and Loughborough, and the police station in Loughborough. Examinations at the police station do not appear to have been limited to persons found by police officers wandering abroad; v., for example, the case of Sarah Roworth, LRO

Usually, the approach was made by a family member of the lunatic, normally a spouse. This was not an inviolable rule. Thus Ann Woods was admitted because "for some weeks past her conduct has been such as to raise much apprehension in the mind of her employers."¹⁴ Others were admitted by the intervention of friends and neighbours.¹⁵ Alternatively, but atypically, the attention of the local Justice might be brought to the situation. As noted in the last chapter, for example, the attention of one Justice was drawn to the situation by the pauper heaving a brick through the window of the Justice's house.¹⁶

Admissions from the workhouse had a different character. The workhouse was an environment where much more intensive surveillance occurred. Admissions from the workhouse also appear to have been triggered by behaviour of the inmate, but the application for admission to the asylum was organized by staff. Of particular importance in this process appears to be the nurse or attendant of the insane wards of the workhouse, where they existed. The admission documents would suggest that the master of the workhouse was at least consulted in the decision as to whether to organize an asylum admission application for someone. The medical officer of the facility might also be involved, but this seems to have been contingent on the interest he showed in the insane persons. Often, the portion of the admission form detailing

DE 3533/227, adm. 07 September 1861, examined at the police station but admitted apparently from the workhouse.

¹⁴Adm. 30 January 1861. Case book, LRO DE 3533/189.

¹⁵See, for example, Ann Kilby, adm. 01 September 1853. Case book LRO DE 3533/187. See also Thomas Bettoney, where both spousal and neighbour involvement seem to have been factors:

Lately he has been in a state of almost constant intoxication + chronic Mania. He has beaten his wife frequently, spent his earnings most foolishly, he has kept his neighbours in a state of constant alarm by his outrageous conduct. [adm. 28 Sept. 55. Case book LRO DE 3533/187.]

¹⁶See case of David Perkins, adm. 24 October 1851. Case Book, LRO DE 3533/186.

facts indicating insanity observed personally by the doctor is, as for domestic admissions, merely an account of one interview with the inmate.

The workhouse admissions may be placed in juxtaposition with the domestic admissions in this administrative context. Domestic admissions occurred in an environment of minimal administrative surveillance or control, workhouse admissions in an atmosphere of much more intensive observation and control. It is therefore appropriate to question the image of the workhouse as a place where lunatics were allowed to rot unnoticed and uncared for. Instead, it may well have been more likely that it was the person in the community, not sufficiently abhorrent in conduct to attract general attention and living alone or with persons either unwilling or unaware of the committal processes, who would be unnoticed in the committal process. Part of this gap would have been filled by the quarterly returns of insane poor living outside asylums, which required the living arrangements to be specified. The poor law central authorities did inquire about individuals insane and living alone. Nonetheless, even inclusion on this list presupposed that the attention of the poor law medical officer had been drawn to the situation in some way.

This juxtaposition applies to persons who were admitted to the workhouse well before being admitted to the asylum. The workhouse was also occasionally used as a brief holding area, where people might be held pending removal to the asylum.¹⁷ This role of the workhouse was explicitly recognized in an 1846 policy decision in Leicester:

A misunderstanding existing between the Master of the Workhouse and the Relieving Officers as to the admission of Insane Persons previous to their removal to an Asylum it is ordered 'That the Master do receive every pauper presenting an order from a relieving Officer (and if such person is pronounced by the Medical Officer, or supposed to be of unsound mind) to

¹⁷This appears to have been a relatively common use for the workhouse: v. testimony of A. Doyle, Assistant Poor Law Commissioner, before the Select Committee on Lunatics, PP 1859 2nd sess (156) vii 501 at qq. 1762 ff.

take care of him until he can be removed, by placing some of the inmates with such person; and the Master is hereby empowered to allow paupers so acting as attendants such additional rations as he may consider necessary.'¹⁸

The Commissioners in Lunacy and the visiting committee of the asylum complained periodically that the poor law officials were avoiding their duties under the legislation.¹⁹ Insofar as this was an objection to the responsive nature of the poor law, the objection appears justified at least as regarded domestic admissions: the poor law officials had to be approached before they would intervene in a situation. Once they had been approached, however, there is little evidence that they avoided confinement of the individual.

The commissioners also complained about the delay in sending people to the asylum, once they had been identified as insane. This objection was phrased in therapeutic terms, as in the following extract from the Metropolitan Commissioners' 1844 report:

At the Retreat, York, at the Asylums of Lincoln and Northampton, and at the asylum for the county of Suffolk, tables are published, exhibiting the large proportion of cures effected in cases where patients are admitted within three months of their attacks, the less proportion when admitted after three months, and the almost hopelessness of cure when persons are permitted to remain in Workhouses or elsewhere, and not sent into proper Asylums until after the lapse of a year from the

¹⁸Leicester Guardians. Minute Book. 26 June 1846. LRO G/12/8a/3. The minute book shows Robert Hewitt as being admitted to the workhouse on this basis in August of that year.

¹⁹For Visiting Committee, see their introduction to "Rules for General Management of the Institution" (Leicester: n.p., 1849) at 20, and their 1869 Annual report. For Lunacy Commission, see Fourth Annual Report, PP 1850 (291) xxiii 363 at 13, 16; Eleventh Annual Report, PP 1857 2nd sess. (157) xvi 351 at 16; Supplement to the Twelfth Annual Report, PP 1859 1st. sess. (228) ix 1 at 32 f.

period when they have been first subject to insanity.²⁰

This complaint was specifically made about the Leicester workhouse in the commissioners' 1844 report.²¹ Whatever the situation in 1844, the admission documents for the early 1860s do not suggest that a large number of people were delayed in their admission to the asylum. The admission documents for the 1861 to 1865 period indicate that almost three quarters of those admitted from domestic settings were admitted to the asylum within three months of the commencement of their attack of lunacy, a markedly higher figure than was the case for private patients, whose admission was out of the hands of the poor law authorities. The figure for workhouse admissions is somewhat lower, with roughly sixty per cent of admissions occurring within the three month period. This is skewed, however, by a relatively large proportion of persons admitted from the workhouse after a number of years insane, often from birth or from what were understood as hereditary or congenital causes. For these people, cure would not have been understood as a reasonable probability.²² If curability was understood to be compromised mainly in the period from three months to one year, it should be noted that only nine per cent of workhouse admissions occurred in this period, and eight per cent from domestic settings.²³ The admission documents on their face thus do not support a view that people were generally held back in the workhouse while curable and then sent to the

²⁰Report of the Metropolitan Commissioners in Lunacy to the Lord Chancellor, (London: Bradbury and Evans, 1844) at 80 f. Reprinting PP [HL] 1844 xxvi 1.

²¹Report of the Metropolitan Commissioners in Lunacy to the Lord Chancellor, supra, at appendix (C).

²²v. comments contained in Twenty-First Annual Report of the United Committee of Visitors of the Leicestershire and Rutland Lunatic Asylum (1869), LRO DE 3533/14, that a third of asylum admissions for 1868-9 were incurable because their case was caused by congenital defects.

²³These figures are based on the relieving officer's response to the question "Duration of existing attack". The analysis is reliant on the dubious assumption that the commencement of the attack was a clear point, allowing for accurate measurement of the duration.

asylum at a later time.²⁴

Conspicuous by their absence in the accounts of both the case books and the admission documents are references to sexuality, and factors associated with gender. While concerns about promiscuity, inappropriate sexual behaviour, or the conception of illegitimate children may be contained in the broad category of 'intemperance', they are not referred to specifically in the documents. More common, particularly in the admission documents and particularly regarding the admission of men from the workhouse, was scandalous conduct, particularly exposing one's person in inappropriate circumstances.

The documents similarly do not further support a finding of general differential treatment of women. Women represented roughly fifty-five per cent of admissions to the Leicester asylum from 1861 to 1865, a proportion typical of pauper admissions to county asylums, at a time when women were roughly fifty-two per cent of the population. Apart from women confined following childbirth, to be discussed below, the material in their reports does not differ notably from pauper men confined.

The class of wanderers and persons not under proper care and control present rather different issues. The statutory provision descended from the eighteenth century lunacy statutes, where protection of the public from dangerous people and protection of the lunatic from wanton cruelty were the legislative aims. The people committed under this section fell into two categories, reflecting the distinction in the statute. Some people were apprehended wandering at large, such as Thomas Proudman, "found wandering abroad doing purposeless and insane things"²⁵ or John Baskin, committed in 1865:

²⁴This was a specific complaint made about Leicester Union in 1847 by the visiting committee of the asylum: v. correspondence between Lunacy Commissioners and Poor Law Commissioners, 8 April 1847, PRO MH 12/6471. Whatever the situation in 1847, the complaint does not appear justified for the early 1860's.

²⁵adm. 28 March 1862, admission documents, LRO DE 3533/228.

John Iliffe, Superintendent of Police, [stated Baskin was] Wandering in the street with a crowd of persons about him, saying he had given a man money to buy a Rifle to shoot persons who were after him to kill him, saying he expected to be killed every minute, said he had been shut up in a room by his Father, he escaped + they have been following him about ever since to kill him, + he would shoot the first devil I can meet with.²⁶

Many people admitted under the above section of the act are indistinguishable on the facts provided in their admission documents from domestic admissions, however. Most appeared to be dangerous on the admission documents, but then again, so did most people admitted from domestic situations. There were also exceptions. All that was said of William Lord's admission as a wanderer on 23 March 1863, was as follows:

The said William Lord the Elder is afraid of persons and unable to give instructions respecting his Trade, He is fearful lest he should destroy himself and his opinion with respect to the relations of things is vague.²⁷

In some cases, the choice of this admission route was not based on grounds of insanity, but rather on economic grounds. This section of the act did not require the individual to be a pauper, yet allowed admission to the asylum at the pauper rate. It thus seems to have been used to some degree by people with some money, for admission at a price they could afford. This was clear for example with Lord, who had previously been both a private and a charity patient in the asylum, and would be re-admitted as a wanderer the following year. Occasionally this is made quite specific on the admission documents, which identify the individual as "not chargeable".

It could be argued that this calls into question the status of the asylum as a poor law institution. Is this after all not a case where the poor law is being

²⁶adm. 16 September 1865. Admission notes, LRO DE 3533/228.

²⁷Admission documents, LRO DE 3533/228.

manipulated to ensure the admission of a wider category of patient? The scale of these admissions must be recognized, however. Inmates not chargeable to the poor law can be identified relatively easily through 1862, as the signature of two justices was required for their admission, rather than one if the individual was a pauper. Only nine of the 148 pauper admissions in 1861 and 1862 persons were so admitted. An additional twelve persons of the 178 admitted between 1863 and 1865 were either admitted by two justices, or specifically shown as not chargeable on their admission documents. The numbers thus appear small.

Issues of Interpretation

Inconsistencies render the interpretation of the local documents problematic. This is true, not merely between the case books and the admission documents, but even within these sets of documents. The recording of the causes of insanity provides an illustration. Causes listed by relieving officers on admission documents were admittedly rare, but in order of frequency the first five causes of insanity of paupers admitted from 1861 to 1865 were religion (eleven cases), business or employment disappointment (eight cases), puerperal mania or childbirth (seven cases), heredity or congenital (seven cases), and grief and bereavement (six cases). In the case books, they were heredity (fifty cases), intemperance (twenty-six cases), grief and bereavement (fourteen cases), poverty (thirteen cases), and puerperal mania or childbirth (twelve cases). In the patient register, compiled by the clerk of the asylum on the instruction of the medical superintendent,²⁸ they were heredity or congenital (fifty-three cases), poverty (thirty-eight cases), intemperance (thirty cases), puerperal and childbirth (fifteen cases); and old age (fourteen cases).²⁹ Poverty was never cited as a cause in the admission documents. Reference to an individual case shows the

²⁸LRO DE 3533/187. The patient register was a list of patients compiled by the asylum clerk, chronologically by the date of admission. Its form was established by statute: v. 8 & 9 Vict. c. 126, sch. G(1); 16 & 17 Vict., c. 97, sch. G(1), which provided that the cause listed was to be as determined by the medical superintendent. As the medical superintendent also kept the case book, these sources might reasonably be expected to match.

²⁹A complete breakdown of these causes is contained in appendix 2.

breadth of the inconsistency. The insanity of Roger Dalby was shown as caused by intemperance in the patient register compiled by the asylum clerk. In the admission notes in the case book, the cause of Dalby's insanity was shown as a fall from a ladder. The entry in the case book relating to his death nine months later referred to "disease of the brain and paralysis".³⁰

At the same time, the case books and the admission documents are the most direct sources available to understand the relations between individual paupers and the system. Both sets of document purport to record factual information. It would be simplistic to dismiss some or all of the documents as simply "inaccurate". Instead, the nature of the documents themselves requires examination, including this process of fact recording. At issue are two interrelated problems.

The first is that the document itself does not stand outside the historical or sociological endeavour. The document itself has a place and a status. It is an administrative product, with a place in the administrative system; it is not an abstract arbiter of facts. In his essay, "'Good' Reasons for 'Bad' Clinical Records",³¹ Garfinkel distinguished between "actuarial" and "contractual" functions of documents. The former was a relatively conventional view where the document described a list of events which occurred. The paradigm for this might be an account book, where all credits and debits are described: the actuarial function of the document in this example would be the describing of the financial transactions which occurred.

Contractual functions of documents did not merely describe events or facts which had occurred; they rather affirmed the fulfilment of certain norms in the behaviour of the individual constructing the record. The records in Garfinkel's example did not merely provide a list of treatments given (the actuarial function); they were constructed in addition with the intent of showing that the doctor who had made

³⁰LRO DE 3533/190. Adm. 21 May 64.

³¹Contained in Harold Garfinkel, Studies in Ethnomethodology, (1967; rpt. Cambridge: Polity, 1987) at 186.

the record had behaved in a way appropriate to a patient-doctor relationship. At issue was not just documenting that certain treatments had been given, but also demonstrating that the medic concerned had been a "good doctor". Nelken's study of harassment crime by landlords provides an additional example. Investigation reports of official Harassment Officers served at least in part an administrative function divorced from the crime described, that was, the demonstration that the case had been handled in accordance with the relevant administrative procedures.³² Focusing on that contractual process, it becomes possible to use the documents to describe those procedural norms, not merely to describe the actual events listed in the document.

The examples given tend to analyse in terms of a pre-existing paradigm of the role of the person making the record. The issue in the medical record example was not defining what the appropriate behaviour for a doctor was, but rather the doctor demonstrating that the pre-defined role had been fulfilled. A similar but more creative function of the document would occur where the norm had not already been settled: the recording of the administrative action would not merely show that the appropriate administrative standard had been met; it would also implicitly define what that standard was. In a parallel situation to that described by Garfinkel, this would not be explicit, through reflexive analysis in the document of the procedures being followed, but would instead be implied in the facts which were reported.

This leads directly to the second issue, which concerns the process of fact-finding itself. Recent textual criticism has focused on the "creation" of facts, raw actuality being drawn through administrative processes and re-structured in a particular context. Descriptions of this process by sociologists, such as the following one by Dorothy Smith, can border on impenetrability:

The fact is not what actually happened in its raw form.
It is that actuality as it has been worked up so that it
intends its own description. That actuality has been

³²David Nelken, The Limits of Legal Process, (London: Academic Press, 1983), at 132 f.

assigned descriptive categories and a conceptual structure. The structure incorporates a temporal organization which both marks the boundaries of what actually happened so that it comes to have the form of an 'event,' 'episode,' 'state of affairs,' etc. It will be accorded an internal temporal structure. These categorial and conceptual procedures which name, analyse and assemble what actually happens become (as it were) inserted into the actuality as an interpretive schema which organizes that for us as it is or was. Using that interpretive schema to organize the actuality does not appear as imposing an organization upon it but rather as a discovery of how it is.³³

The "fact" is created in a specific context, and its content is structured by that context; but it is taken as "true" and in some sense presumably is "true".

The nature of the resulting conundrum may perhaps be clarified by examining a specific case. In his work on the Glasgow Royal Infirmary, Jonathan Andrews cites the difficulties of relying on the questionnaires completed by relatives of patients, questionnaires remarkably similar to the admission documents to English county asylums:

The foremost difficulty in using these questionnaires is that they predetermine answers which often convey more about the preoccupations of the asylum's medical regime, than about the patient's prior history. ...

Far from representing patients' impressions, first and foremost case notes constitute the impressions of the medical practitioners and officers who wrote them. Inevitably prejudiced by the interests of medical men in portraying a favourable record of their own practise, case notes are also limited by the criteria dominating the selection of what to take down and what to omit.³⁴

³³"The Social Construction of Documentary Reality". 44(4) Sociological Inquiry (1974) 257-268 at 258.

³⁴"The Glasgow Royal's case notes", paper delivered conference on the History of Case Histories. Stuttgart: Wellcome Unit for the History of Medicine (Glasgow) and Institut für Geschichte der Medizin der Robert Bosch Stiftung, 23-25 September

This recognizes half of the problem: the recording of the fact is affected by particular context of the recording. Perhaps because Andrews' interest is explicitly in the use of these documents to discover the patients' experiences in the asylum, he does not highlight the second part of the problem: the documents at issue recorded "facts" which were in some sense "true". The statements were made in good faith as descriptions of the individuals and their situations, or to use the sociological jargon, the statements intended the truth of their content. As a result, they had social effects: the documents to be discussed below were viewed by the Commissioners in Lunacy, and were presumably important in shaping their attitudes to social policy. They also structured the administrative processes for the committal of individuals.

The complication of the fact-finding process is particularly interesting when combined with the first issue discussed above. In the case of an extreme contractual functioning, the text not merely describes that the appropriate processes have been followed, but also defines what those processes are. That does not necessarily imply a consideration of those processes apart from the situations in which they are implemented, and when these occur together, the process of fact-finding becomes indistinguishable from the process of the creation of administrative norms.³⁵ The result is that textual production is a creative administrative process. As Dorothy Smith says, "The text itself is to be seen as organizing a course of concerted social action. As an operative part of a social relation it is activated, of course, by the reader but its structuring effect is its own."³⁶

Casebooks and factual reporting

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³⁵As an example of this, v. Bryan Green, Knowing the Poor, (London: Routledge, 1983), which is a study of the 1834 and 1909 poor law reports. Part of Green's argument is that the process of writing a Royal Commission Report had not been standardized by 1834. Through its fact-finding processes, the 1834 report was therefore not merely recording, but also justifying its own approach to the process of writing a report.

³⁶Texts, Facts, and Femininity, (London: Routledge, 1990) at 121.

The keeping of case books in psychiatric facilities was a largely nineteenth century phenomenon. The first appeal for systematic recording of case notes was apparently made by Thomas Percival in 1803.³⁷ Leading English institutions began to keep case books in the second decade of the nineteenth century, but they did not become compulsory until 1845 in English and Welsh county asylums, and 1857 in Scots asylums.³⁸ There was at this time no conventional wisdom regarding asylum record-keeping. Notes of medical cases had long been kept, of course, but these were idiosyncratic affairs, without attempt to ensure broad standardization between facilities and between practitioners.

The attempt to introduce a standardized format for case books into asylums can therefore be seen as a novelty. The requirement for the case book in the statute referred to the contents only generally, requiring that "as soon as may be after the Admission of any Patient, the mental State and bodily Condition of every Patient at the Time of his Admission, and also the History from Time to Time of his case whilst he shall continue in the Asylum" be recorded for the periodic inspection of the visiting committee.³⁹ The administrative order of the Lunacy Commissioners was much more detailed.⁴⁰ First, basic personal information was to be recorded. The order continued:

SECONDLY-- An accurate description of the external appearance of the Patient, when first seen after admission;-- of his habit of body, and temperament;--

³⁷v. Jonathan Andrews, "The Glasgow Royal's Case Notes", *supra*, at 4; Roy Porter, *Mind-Forg'd Manacles*, (1987; rpt. Harmondsworth: Penguin, 1990) at 211; Richard Hunter and Ida MacAlpine, *Three Hundred Years of Psychiatry*, (London: Oxford University Press, 1963) at 585.

³⁸Andrews, "The Glasgow Royal's Case Notes", *supra*, at 4. According to Andrews, the Glasgow Royal commenced to keep case notes in 1816; the Royal Edinburgh Infirmary did not do so until 1840.

³⁹8 & 9 Vict. c. 126, s. 74; 16 & 17 Vict., c. 97, s. 90.

⁴⁰v. order of Commissioners in Lunacy dated January 1846. A copy of this order is contained in LRO DE 3533/216.

of the appearance of his eyes, the expression of his countenance, and any peculiarity in the form of his head;-- of the physical state of the vascular and respiratory organs, and of the abdominal viscera, and their respective functions;-- of the state of the pulse, tongue, skin, &c.

THIRDLY-- A description of the phenomena of mental disorder which characterize the case;-- the manner and period of the attack;-- with a minute account of the symptoms, and the changes produced in the Patient's temper or disposition;-- specifying whether the malady displays itself by any, and what, illusions, or by irrational conduct, or morbid or dangerous habits or propensities; whether it has occasioned any failure of memory or understanding; or is connected with epilepsy, hemiplegia, or symptoms of general paralysis, such as tremulous movements of the tongue, defect of articulation, or weakness or unsteadiness of gait.

FOURTHLY-- Every particular which can be obtained respecting the previous history of the Patient:-- what are believed to have been the predisposing and exciting causes of the attack;-- what have been his habits, whether active or sedentary, temperate or otherwise;-- whether he has experienced any former attacks; and, if so, at what periods;-- whether any of his Relatives have been subject to Insanity, or any other cerebral disorder; and whether his present attack has been preceded by any premonitory symptoms, such as restlessness, unusual elevation or depression of spirits, or any remarkable deviation from his ordinary habits and conduct;-- and whether he has undergone any, and what, previous treatment, or has been subjected to personal restraint.

The Lunacy Commission instruction suggests that the case book was to be a form of examination, the sense that Foucault uses the term in Discipline and Punish. In Foucault's disciplinary institutions, specific techniques were used to subjugate the body: hierarchical observation, through which the individual was under constant and minute surveillance; and normalizing judgment, where departure from the precise institutional rules was subject to correction. In examination, these themes met:

It is a normalizing gaze, a surveillance that makes it possible to qualify, to classify, and to punish. It establishes over individuals a visibility through which one differentiates them and judges them. ... The superimposition of the power relations and knowledge relations assumes in the examination all its visible brilliance.⁴¹

The professional gaze, the "economy of visibility"⁴² was transformed into a power relationship; the individual inmate was organized into documentary structures; and the inmate became a 'case':

[T]he child, the patient, the madman, the prisoner, were to become, with increasing ease from the eighteenth century and according to a curve which is that of the mechanics of discipline, the object of individual descriptions and biographical accounts. This turning of real lives into writing is no longer a process of heroization; it functions as a procedure of objectification and subjection.⁴³

The commissioners' order suggests some consistency with Foucault's model. The order invited an objective, somewhat sanitized and professional description based largely on physical symptoms. The patient was to become a 'case', establishing both a hierarchical treatment relationship, and the individual patient as a base of knowledge. Consistent with the interests of the Lunacy Commissioners in systemically compiling and promulgating knowledge about effective care and treatment of the insane,⁴⁴ the order required that particulars be recorded "in a manner so clear and distinct, that they may admit of being easily referred to, and extracted,

⁴¹Discipline and Punish, trans. Alan Sheridan, (New York: Random House, 1977) at 184 f.

⁴²Discipline and Punish, *supra*, at 187.

⁴³Discipline and Punish, *supra*, at 192.

⁴⁴The Lunacy Commissioners had, for example, included summaries by asylum of treatment techniques and efficacy as an appendix to the Supplementary Report, PP 1847 [858]; in octavo 1847-8 xxxii 371.

whenever the Commissioners shall so require". The order was in this respect consistent with Percival's original plea for the keeping of casebooks, explained by Roy Porter as follows:

To counter the regrettable fact 'that the various diseases which are classed under the title of insanity, remain less understood than any others with which mankind are visited', Percival recommended that full particulars of each patient be recorded, including 'age, sex, occupation, mode of life, and if possible hereditary constitution'.⁴⁵

The Leicester case books departed from this order in various interesting ways. What is initially striking is their lack of the sanitized professional gaze suggested by the commissioners' order. They were not detached and objective accounts suitable for tabular presentation, but torrid tales of woe, often with overtones of moralization. Particularly in the 1840s and 1850s, the description of the physical appearance of the patient could verge on the poetic. Tongues were furry or, rarely, clean. Eyes were described by colour, darkness, expression, fullness, prominence, and expressiveness. Temperaments might be nervous, angry, restless, phlegmatic, or sanguine, and heads might be round or bullet-shaped. Countenance might be bloated, melancholic, or "peculiar", this last indicating lack of intellect or idiocy. The description of John Healey admitted in 1851, provides a particularly clear example of such metaphoric language:

The Patient's temper is very vindictive, and his disposition bad, his conduct has been very irrational, and his propensities dangerous to others ... The habits of this Patient, for years past have been very irregular, he has had no home, or settled abiding place, but has been a wanderer and a vagabond, he had a similar attack four years ago [for which he was apparently not confined] his life has been one of intemperance, idleness, and vice, his conduct to his mother has been most unnatural,

⁴⁵Porter, *Mind-Forg'd Manacles*, *supra*, at 211. The quotations are from Percival, *Medical Ethics* (1803).

and cruel, ... he is very restless, taciturn, and cunning, and his countenance bears the stamp of undisguised villainy.

His case note regarding his readmission the following year was even more extreme:

He was more disreputable in appearance, more diabolical in aspect, and certainly in worse health. There was not so much mental excitement, but in its place was a large amount of animal cunning, low trickery, and all the paltry, and petty devices of an abandoned character, his habits had become those of a confirmed drunkard, idle, dissolute, and intemperate, his conduct most irrational, his propensities violent and, toward his Mother, dangerous and most unnatural.⁴⁶

The description of the mental malady itself tended to focus on the symptoms and behaviour of the individual upon their admission to the facility. The entry regarding Joseph Johnson, admitted in June of 1861, was typical:

This is a case of Mental Imbecility of some degree, the patient never speaks intelligibly but is frequently uttering unmeaning sound. He eats his food ravenously, is threatening + sometimes violent to those around him. He fights + kicks those near him without any apparent cause. he walks out daily in the airing Court. He sometimes breaks + destroys furniture, but not to any great extent.⁴⁷

The history, as well, typically centred less on medical matters, as implied in the commissioners order, and more on the circumstances of the individual's life. Thus of John Kettle it was stated:

This man's business has lately left him in consequence of a competitor springing up in his village who charged more moderately. The effect on the poor man was soon

⁴⁶LRO DE 3533/186, admissions on 16 June 1851 and 5 April 1852.

⁴⁷LRO DE 3533/190; adm. 10 June 1861.

seen, he became negligent, intemperate, and idle, when before this disappointment he was remarkable for his steady, industrious and sober habits, his spirits at first were dreadfully depressed, now, however they are elevated, he is very restless, and destructive in his habits, he has been under medical treatment but not subjected to personal restraint.⁴⁸

It is difficult to see in these accounts the "ritual and 'scientific'"⁴⁹ enrolment of individual difference of the Foucauldean examination and as implied in the Lunacy Commission's order. There is no reason to doubt Foucault's more fundamental claim, that the construction of individuals' lives in the case books subjected the individual inmate to a power relationship, but the imagery of the case books suggests that this was less through a sanitized professional gaze than through a process of marginalization and, often, moralization, the tools of the poor law.

Little information was added to the case books prior to the departure of the patient. Occasionally, particularly in the 1840s and early 1850s, the initial treatment accorded to the patient would be noted, and a summary paragraph would be added regarding the outcome, completing the morality tale. Thus after recording the medicines and leeching undergone by Harriet Dakin, admitted in 1846, the case book concluded:

she gradually regained her health and strength, and for several weeks previous to her leaving the asylum was industriously employed in working for the benefit of the Institution.

She left quite recovered, and with many expressions of gratitude [s.i.c.] for the benefit she had derived.⁵⁰

By the 1860s, however, it was more frequent that the discharge note would indicate

⁴⁸Adm. 19 April 1849. LRO DE 3533/186.

⁴⁹Discipline and Punish, *supra*, at 192.

⁵⁰LRO DE 3533/185, adm. 17 June 1846.

merely whether discharged (cured, improved, or, rarely, not improved), transferred or died, and the date. As a result, it is not possible to establish with any certainty how it was decided when a patient should leave.

These cannot have been intended as complete accounts of the inmates' lives or treatment in the asylum in the sense of a modern clinical record. Frequently, there would be no indication of what happened to the individual between admission and discharge, some months, years, or decades later. It is more reasonable to see them as recording both the appropriateness of the admission (the actuarial function) and that proper care had been taken to ensure the appropriateness of the admission (the contractual function). Consistent with this, there was a concerted attempt to paint the asylum in the best possible light. In the early years, when a significant entry might be included regarding the outcome of the case, this might involve alteration of attitudes during the construction of the record. Thus upon John Dalley's admission in 1845, the case book states:

This Man appears to be suffering more from poverty and want than from any other cause, and does not, as far as I can judge, appear to be labouring under any particular delusions, he is quiet in his manner, amounting to reserve, cleanly in his habits and disposed to be industrious, but destitution has for the present incapacitated him from laborious employment.⁵¹

The prognosis for this patient ought to have been good. Standard asylum practice was to provide a "liberal diet" to all patients upon admission, a programme which would have been expected to result in speedy and marked improvement in Dalley's condition. Perhaps for this reason, there is an extended albeit inconsistent note five weeks later, blaming his death on medical treatment received prior to admission to the asylum:

This poor man when admitted into the Asylum was in a very low, and desponding condition, his health, too, was much disordered and it was with extreme difficulty

⁵¹LRO DE 3533/185. Adm. 28 March 1845.

he could be kept alive for a length of time previous to his admission he had been in a most excited state labouring under one of the most violent forms of mania, for which he was bled, blistered, leeches and physicked and reduced to such a state of exhaustion that his system never recovered from the shock. For a length of time he was kept up by the administration of a most generous diet, meat, eggs, wine and ale, but he gradually sunk and died from the effects of maniacal exhaustion.

It is much to be regretted that in cases of maniacal excitement the system is so generally, and so extensively depleted thereby rendering the subsequent state so extremely hazardous to the Patient, when exhaustion suddenly supervenes, and the vital energy having been previously completely prostrated, is unable to rally, and all hope is excluded of a favourable termination to the case.⁵²

Similarly it is not easy to reconcile the note upon Jane Chadbourne's re-admission, that she was "discharged contrary to Mr. Buck's advice, her friends being anxious to try her at home" with the note upon that discharge, "Jane Chadbourne was discharged Jan. 12th 1867 as recovered",⁵³ except that each portrayed the asylum in favourable terms at the time the record was constructed. Such discursive jumps become somewhat less frequent as the period progresses: perhaps owing to increasing numbers of re-admissions, the case books are increasingly guarded about the prognosis of individual patients.⁵⁴

It is not clear how promptly the case books were completed. The wording of

⁵²Ibid.

⁵³LRO DE 3533/191. Adm. 28 Jan. 68. See also the case of Mary Farndon, whose discharge followed the cure of a uterine problem not mentioned at all in the relevant question in the pre-printed section of the admission notes: LRO DE 3533/185.

⁵⁴The annual reports and case books of the asylum indicate that between 1853 and 1868, 340 of the 1641 admissions were readmissions. By comparison, 846 persons were discharged alive from the asylum in this period.

the following entry for William Bradshaw, admitted in November 1865, would suggest that it may not have been completed until after his death in March 1866, thus allowing the asylum the opportunity to present a favourable account:

This is a case of Chronic Mania the result of old age + poverty. The patient altho' in a very helpless + infirm state is very irritable, jumping up + catching hats of anyone or anything which was in his reach, and his filthy habits made his case a very wretched one.

But little remains to be done for such a case he was speedily cleansed of the filth + vermin with which he was covered, and altho his appearance was improved in appearance, he soon succumbed to the influences of increasing age + decay.⁵⁵

The asylum's practices suggest a different administrative agenda from that implied by the commissioners order; yet there was no other obvious source for the asylum staff to receive guidance on the completion of case records. The case books can therefore be understood not merely as recording the fulfilment of a pre-defined relationship, but also as creating the definition of what appropriate fulfilment of that relationship entailed. They not merely demonstrated that the patients got the "treatment they deserved", as Garfinkel's records did, but also defined, through the facts they contained, what was relevant to determine whether the patient got the "treatment they deserved".

According to the statute, the prime readers of the case book were to be the visiting committee of the asylum,⁵⁶ a group primarily composed of Justices, who had a particular interest and sympathy with the asylum. The Leicester case books were also read by the Lunacy Commissioners, who signed them and who commented upon them in their reports on the asylum. The poor law guardians and medical officers who

⁵⁵adm. 04 Nov 1865. LRO DE 3533/191. Bradshaw was aged 82 at the time of his admission.

⁵⁶8 & 9 Vict., c. 126, s. 74; 16 & 17 Vict. c. 97, s. 90.

visited the asylum had no statutory right to read or examine the case books,⁵⁷ and there is no indication for the Leicester and Rutland Lunatic Asylum whether or not they did so. It was thus the visiting committee and the commissioners who were to be convinced of the appropriateness of the asylum's conduct. The case books were completed by the medical superintendent, whose views as to relevance would be reflected, and in addition, while the Lunacy Commission's guideline was departed from in spirit, it was influential in form. Despite these implied influences, the formation of an orthodoxy was unlikely to have been by conscious political compromise or negotiation. It is assumed that the medical superintendent was merely trying to be persuasive both of his readers and of himself, and through this process created an orthodoxy of relevance and standards in the case books.

In this context, the focus upon the admission of the individual to the asylum is interesting. On the one hand, this can be seen as reflecting the broad social concern that people were being wrongfully committed. The Lunacy Commission presented itself as a protection against such wrongful confinement, and the fact that there were no protections to prevent wrongful confinement of persons in workhouses had been important in their criticism of workhouse care of the insane in the late 1850s.⁵⁸ It is thus not surprising that it was addressed in the case reports.

What is surprising is the focus on admission to the near exclusion of all other aspects of asylum care and treatment. Various consequences flow from this. First, the absence of comments regarding individual treatment and progress would effectively preclude treatment which required knowledge of the individual patient to be developed over time. There were in the early 1860s almost 400 patients at a time in the asylum. It is inconceivable that the medical superintendent was able to remember significant information about each case without the aid of notes, and there is no suggestion that he kept notes apart from the case book. It must be that the

⁵⁷Their rights on visitation were limited by 8 & 9 Vict., c. 126, s. 69; and 16 & 17 Vict. c. 97, s. 65.

⁵⁸v. Supplement to the Twelfth Annual Report of the Commissioners in Lunacy, PP 1859 1st sess., (228) ix 1, for example at 11.

treatment offered did not require this information to be kept. Consistent with this, minimal medical treatment was offered, at least, minimal medical treatment that cost money. In 1865, when there were an average 397 patients in the asylum, the dispensary spent £63/7/2 on drugs, or just over 3 shillings per patient. An additional £56/17 was spent on wine and spirits for the dispensary, or just under 3 shillings per patient. While people were often leeches, blistered, and physicked upon admission, it must have been the case that the average patient received little from the dispensary after that.

This is perhaps not a surprise. The treatment of preference in this period was moral management, which was based not on drugs but on organization of the behaviour of the patient. This too was not comprehensive. Even allowing that the work performed by the patients was intended as therapeutic, a minority of patients were engaged in such work, even at high season. The records offer no insight as to whether this was due to a lack of work, or an inability of patients to engage in such work; but it does suggest limitations on the moral management which was being offered. The development of individual characteristics of the patient in the mid- to long-term must have been irrelevant for the understanding of the moral treatment, since those individual characteristics were not recorded. System seems to have succeeded individual status.

This is consistent with the move from eighteenth to nineteenth century moral treatment. The small, eighteenth and early nineteenth century facilities forced the mad person to confront their unreason, to use Foucault's image, and for those treated by Fox at Ticehurst or Tuke at York, the scale of the institution allowed moral treatment with an individual focus.⁵⁹ The failure to record the personal details which are the preconditions of such individual treatment is indicative of the move away from individual care toward reliance on the system. The inmate may have been a 'case' at the point of admission to the asylum, but not thereafter.

⁵⁹v. Porter, Mind-forg'd Manacles, *supra*, at 226 f.

The exclusion of personal information relating to the progress of the inmate also suggests that neither the readers of the case books nor their author believed it sufficiently important to insist on their inclusion-- not the Justices of the Peace, not the Lunacy Commission, and not even the medical superintendent. General peace and good order may have been an important objective for the asylum,⁶⁰ but the improvement of individuals, at least until their discharge, was not.

Even at the point of admission, the casebooks are striking in their focus on the individual, not on diagnosis or the characteristics of the mental disease of the patient. With the exception of heredity, a factor which the medical superintendent was specifically instructed to watch for by the commissioners' direction, all other major causes of insanity listed by the case books reflect social conditions of the individual. Insanity was caused by grief, intemperance, childbirth,⁶¹ religion, or poverty, according to the case books. Brain disease was cited in only eight of 167 cases where causes were shown between 1861 and 1865, and all other diseases in only an additional nine. There was no clear distinction made between the insanity and the behaviour of the individual. Consider the following account of Marianne MacHale's fall from sanity:

[She was] placed in a respectable situation as soon as she left the Asylum on the 5th of August 1845 where she might have gained a decent livelihood had she conducted herself with propriety. She soon, however, left it; frequented her old haunts of vice and profligacy, took to drinking and soon beggared herself. She was subsequently sent to the Union where she addicted herself to theft and became the terror of all the inmates, and in consequence of her excessive violence she was soon removed to this establishment.⁶²

⁶⁰Andrew Scull has argued that the asylum superintendents defined their role in terms of management of the insane, as the nineteenth century wore on: Scull, Museums of Madness, (1979; rpt. Harmondsworth: Penguin, 1982), particularly at chapter 6., Most Solitary of Afflictions, supra, at chapter 6, esp. 284 ff.

⁶¹Regarding childbirth in this context, see further below.

⁶²Adm. 2 May 1846. Case book LRO DE 3533/184.

While the case book does normally provide a diagnosis, the focus was on the behaviour which justified the committal; in this, the case books resemble the admission documents, to be discussed below.

The imagery in these descriptions is highly reminiscent of the judgmental language of the new poor law. Poverty itself appeared as a cause of insanity thirteen times between 1861 and 1865 in the case books. The emphasis on character in the descriptions has already been noted. The treatment accorded by the asylum upon the arrival of the inmate was portrayed as humanitarian and beneficial, consistent with the placement of the asylum as in opposition to the hardness of the new poor law. Thus in Marianne MacHale's case note quoted above, the workhouse was portrayed as one step on her slide into madness. The asylum inmates themselves were portrayed particularly in early years in extremely moralizing terms, as can be seen in the examples from the casebooks above. With the introduction of the new casebook format in 1856, the medical superintendent was explicitly required to assess 'character'.

This moralization appears to be a change between the eighteenth and the nineteenth century. Suzuki notes precisely the opposite trend among the eighteenth century poor confined to houses of correction, where morally judgmental language ceased with the pauper was identified as a lunatic.⁶³ Thus while the nineteenth century asylum may have been in part created as a paternalist challenge to the poor law, the lunatic became described in new poor law imagery.

The use of poor law imagery frequently imported a moral condemnation on the insane pauper, but occasionally, the judgment was critical of social factors instead, factors which drove the pauper to madness. Thus it was said of Elizabeth Spawton,

This patient has worked, for many years, as a factory hand in a crowded and vitiated atmosphere, where, no

⁶³"Lunacy in seventeenth- and eighteenth-century England... Part II", 3 History of Psychiatry (1992) 29 at 34.

doubt, she contracted her disposition to pulmonary disease, and the predisposing one of her Insanity.⁶⁴

The criticism of the persons insane due to poverty could be tempered by an implied criticism of poverty itself. When the new format of case book distinguishes between moral and physical causes of insanity, poverty normally is considered a physical cause. Some of the people who were insane due to poverty were not blameworthy in the eyes of the asylum as they were perceived as poor for reasons beyond their control. This imagery is reminiscent of another side of the poor law, that concerned with public health. The 1842 Sanitary Report, upon which Chadwick and Shaftesbury collaborated, blamed the mental decay of the poor on public health factors. Himmelfarb summarizes:

[It was] the foul odors of open cesspools, the garbage, excrement, and dead rats rotting in the streets, the filth and scum floating in the river, the sewage that passed as drinking water ... the 'miasma' emanating from all that decaying matter, the 'fetid effluvia,' 'poisonous exhalations,' and 'reking atmosphere' which were the source of the physical, moral, and mental deterioration of the poor.⁶⁵

The public health connections are particularly apparent in the appointment of John Buck, Leicester's first medical officer of health, as the asylum's second medical superintendent in 1854.

The use of the various strands of poor law imagery in the case books reflected and re-enforced the ideals of the asylum. If the care offered by the asylum involved relatively little chemical treatment, what it did pride itself on offering was food and respite, a regimen from which those suffering from the physical effects of poverty might hope to benefit. And the point of moral management, insofar as it was actually practised in the asylum, was reformation of character. The adoption of the poor law

⁶⁴Adm. 14 March 1851. Case book LRO DE 3533/186.

⁶⁵The Idea of Poverty, (London: Faber, 1984) at 357.

is consistent with the asylum's attempt to portray itself in the best light, justifying committals as cases where its treatment would be reasonably expected to be effective.

The admission of women following childbirth was a special case of this. Almost one tenth of the women admitted from a domestic setting, and one fifth of those for whom a cause was recorded in the case books, were shown as suffering from insanity caused by childbirth, or puerperal mania. The description of Mary Ann Wood was typical:

the patient has been delusive + restless for some days + nights previous to her admission. It appears that she had some excessive discharge upon her before admission, that her appetite suddenly failed her, and that becoming restless and delirious + even threatening in her language + conduct her friends have moved to place her in the asylum. She expresses absurd fancies about rules and prison. She is constantly crying and is very restless at times.⁶⁶

Restlessness, exhaustion, and crying without cause were typical of the descriptions of these women. They often had a large number of small children at the time of their admission. Interestingly, these women were not generally described in terms of fallen characters, or sexual immoderates. In essence, the justification for committal seems implicitly to have been admission of the woman to allow her some recovery time away from the poverty of her ordinary life.⁶⁷ These women were, almost without exception, discharged cured within a few months.

Admission Documents

⁶⁶LRO DE 3533/190; adm. 30 May 1863.

⁶⁷A similar argument has been made regarding eighteenth century hysteria at the Edinburgh Infirmary: v. Roy Porter, "Divided Selves and Psychiatric Violence", 6 Cycnos (1990) 95 at 98.

In practice, the admission documents were required to have a relatively strong actuarial character: it was these documents which convinced the Lunacy Commissioners and the local Justices of the propriety of a committal. It would be naive to think that these documents did not have a contractual function as well. The scale of operations would have required the Lunacy Commissioners to rely on poor law medical officers doing their jobs with relative efficacy, and the admission documents must have demonstrated that standard. Similarly, in a system of local administration where reputation of individual officers might be expected to be important, the medical man and the relieving officer would want the admission document to demonstrate that they had done a good job. Nonetheless, Justices and commissioners could be independently minded in their decision-making, and the admission documents thus had to contain sufficient detail to convince of the appropriateness of the committal.

The selection of facts in the documents therefore had an instrumental function. They were not merely descriptive. The "situated reality" of the individual was turned into a textual account, which in turn became the definitive version of the original event, and a justification for the subsequent committal. This issue arises in any factual reporting, but it may be particularly acute regarding insanity where, as Dorothy Smith argues in a modern context, the structuring of the concept of mental illness is intended to impose an order onto a situated reality, a patient's life, which is chaotic:

The institution of mental illness, its conceptual organization, forms of social action, authorized actors and sites, and so forth, are concerned precisely with creating an order, a coherence, at those points where members of a community have been unable or unwilling to find it in the behaviour of a particular individual.⁶⁸

The process of fact-finding in this context thus involves the creation of a coherence in the actions of the mad individual. With the coherence comes significance, a

⁶⁸"K is Mentally Ill: The Anatomy of a Factual Account", in Texts, Facts, and Femininity, *supra*, 12 at 44.

realization that the individual is mad, and with that, certain social consequences, most importantly in the instant context, admission to the asylum.

The theoretical discussion of this process belongs to the twentieth century, but its practical implications were articulated in the nineteenth. John Bucknill's 1861 article, "On Medical Certificates of Insanity", was a user's manual of how raw observations were to be worked up to form justifications for committal. The character of this piece may be gleaned from the following excerpt:

The imperfections of medical certificates arise perhaps more frequently from the form in which the facts are stated, than from any deficiency in the facts themselves. Allow me to illustrate this by a few examples. The following was a statement of facts sent with an idiot, 'He puts stones in his pockets and will not talk.' This, of course, was not sufficient although it applied to an idiot boy found wandering, of whom nothing was known. But if the medical man had thrown almost the same observation into the following form, his certificate would have been unimpeachable.

'His appearance is idiotic,--

['He picks up stones, and puts them in his pockets as if he attached value to them.

['When interrogated, he does not speak.'

Here are the facts which, taken together, afford good grounds for the opinion that the individual is an idiot.

* * *

Here is another example in which no language, and therefore no expression of delusion could be observed, 'Her general demeanour, preserving a sullen silence, and the expression of her countenance, and her restless movements.' This was a case of sullen and dangerous mania; and the fault of the certificate is not that of defective observation, but of defect of form; since there is nothing in this language to shew that the general demeanour, the sullen silence, the expression of

countenance, and the restless movements were not the indications of reasonable fear, or reasonable anger, or some other state of sound mind. Let us try to recast these observations thus, 'The expression of her countenance is wild; she is in a state of restless movement without object. When questioned, she preserves a sullen silence.'⁶⁹

Bucknill's comments here reflect the contents of the admission documents to the Leicestershire and Rutland asylum, although the Leicester documents also detailed facts communicated by others, matters considered by Bucknill to be mere surplusage. The comments on the documents of Sarah Smith, admitted in 1864, are typical:

[Facts observed:] Restless, roving manner, calling upon neighbours and people without any apparent object, incoherent, sleepless, rises very early in the morning and wanders about the house.

[Facts communicated by others:] Threatened to stab Elizabeth Hunt with a large knife and when she made her escape threw it with violence at her, and in the presence of another women said she would kill her, communicated by Mrs. Hunt, Mother of Elizabeth Hunt.⁷⁰

The reporting of the facts imports a significance to the lives of the individuals and creates an order in them. For sociologists such as Dorothy Smith, the academic interest is looking at the persuasive function of texts in this process. In this thesis, the persuasiveness is accepted. What is of greater interest is the clarification of the structure of the ordering within the documents, to clarify how the role of the asylum was understood.

In general, the admission documents identified domestic admissions as dangerous to others or suicidal. Only twelve of the 177 domestic admissions appeared to be otherwise. The remarks regarding Elizabeth Tarry are typical:

⁶⁹7 Journal of Mental Science (1861) 79, at 83 f.

⁷⁰LRO DE 3533/228, adm. 16 August 1864.

[Facts observed:] Very incoherent in her manner and conversation. appears very low and melancholic.

[Facts communicated by others:] The patient's Sister Mary Neale informed me that the patient had refused to take her food or to get out of bed and sometimes locks herself in her room for two or three days together, and that on thursday last, she attempted to strangle herself with a piece of Cord which she placed around her neck and tied to the side of her bed, and would have accomplished her purpose but for the interference of her sister and a neighbour.⁷¹

This determination of dangerousness appears to have been the central to the decision to send an individual to the asylum from a domestic setting. It applied, for example, to the pregnant women suffering from mania related to childbirth and exhaustion. The admission document of Mary Ann Wood, whose case note was quoted above, reads as follows:

[facts observed:] Incoherent + hesitating manner of answering questions; delusions with regard to the state of her house, Expressing her belief that everyone entering it brings filth + bad smells into it. Violent prejudice against the child of her husband by a former wife + her neighbours all of whom she believes wish to do her harm.

[facts communicated by others:] The neighbours report that she constantly makes use of very gross language. On tuesday last was very violent to her daughter, Has threatened to burn her house, and has said that she feels that she must chop her childs head off. Has had previous attacks, and there is a clear history of hereditary predisposition. Leah Chamberlin of Gilmorton communicated the above facts to me.⁷²

In this reliance on dangerousness, the admission documents can be seen as reflecting the broader legal agenda. As discussed in chapter one, the eighteenth

⁷¹LRO DE 3533/227; adm. 22 June 1861.

⁷²LRO DE 3533/228; adm. 30 May 1863.

century introduction of consideration of lunacy into the poor law had concerned persons who were 'furiously Mad, and dangerous to be permitted to go Abroad.'⁷³ Under the nineteenth century poor law, it was only dangerously insane people who were precluded from workhouse accommodation, and if one of the functions of the admission document was to justify asylum admission as distinct from workhouse admission, dangerousness would be the obvious criterion to cite.

There were also common law roots regarding confinement which continued to resound, even though the committal criteria of the asylum acts did not explicitly require dangerousness to be shown. Comyn's Digest recorded the following plea in defense of an action for false imprisonment:

So, the defendant may plead that he did it to prevent apparent mischief, which might ensue: as, to restrain the plaintiff, non sane, from killing himself, or others, burning a house, or other mischief.⁷⁴

A similar statement is found in Bacon's Abridgment.⁷⁵ This defense would appear to have been well-established by the eighteenth century. Brook's abridgement from the sixteenth century contains another similar statement referring specifically, as in Comyn, to restraining the lunatic from killing, or doing mischief such as setting fire to a house.⁷⁶

These roots continued to be influential in the nineteenth century. In In Re Fell (1845), Patteson J. commented that "These [i.e. the 1828 and 1845 madhouse] statutes

⁷³12 Anne, c. 23.

⁷⁴Sir John Comyn, Digest of the Laws of England, 5th ed., 8 vols., ed. Anthony Hammond, (London: Strahan, 1822) at vol. 6, p. 544, pl. 3.M.22.

⁷⁵Sir Matthew Brook, A New Abridgement of the Law, 7th ed., 8 vols., ed. H. Gwillim (vols. 2-4) and C. Dodd (vols. 1, 5-8), (London: Strachan, 1828) at vol. 7, p. 664.

⁷⁶Robert Brook, La Grande Abridgement, 2 vols. (n.p., 1573), "Faux Imprisonment", pl. 28, vol 1, p. 330.

were passed for the protection of the public...".⁷⁷ In Nottidge v. Ripley (1849),⁷⁸ Sir Frederick Pollock C.B. stated in his charge to the jury, "It is my opinion that you ought to liberate every person who is not dangerous to himself or others ... and I desire to impress that opinion with as much force as I can."⁷⁹ In R. v. Pinder (1855), Coleridge J. made the following similar remarks:

This is a general observation; but I cannot help perceiving, in reference to this and preceding statutes upon the same subject, that the legislature has proceeded in them with the double object of protecting the public and lunatics, real or supposed; facilitating in many respects the reception of persons dangerous to themselves or others or of unsound mind into asylums, where they will be properly restrained and treated, yet guarding both their reception and continuance there with great, and it cannot be denied with proper, jealousy, to secure persons placed there from being improperly treated there with harshness or inconsiderateness, or detained there unnecessarily.⁸⁰

Treatment was mentioned, but not as the *raison d'être* of the confinement. The reason for the confinement is the protection of the public and the "real or supposed" lunatic. These attitudes continued until well after the 1870 termination of this dissertation. In R. v. Whitfield, ex parte Hillman (1885), for example, Lord Coleridge, then Chief Justice, found that the alleged lunatic was "neither epileptic nor dangerous to himself or others",⁸¹ and continued as follows:

⁷⁷(1845), 3 Dowl & L. 373, 15 L.J. (N.S.) M.C. 25 at 29 (Q.B.).

⁷⁸Court of the Exchequer, June 1849. Quotation taken from Andrew Scull, "The Theory and Practice of Civil Commitment", in Social Order/Mental Disorder: Anglo-American Psychiatry in Historical Perspective (London: Routledge, 1989) 280 at 283 f. Scull cites The Times (London), 27 June 1849, page 7, column 5 as the source of the quote.

⁷⁹Quoted in Andrew Scull, "The Theory and Practice of Civil Commitment", supra, at 283 f.

⁸⁰R. v. Pinder; In re Greenwood (1855), 24 L.J. (N.S.) Q.B. 148 at 151.

⁸¹15 Q.B. 122 (C.A.) at 131.

Mr. Hillman is not alleged to have been a raging and dangerous lunatic. The common law always allowed the restraint of the liberty of such persons. The statute authorizes, and most properly, interference with the liberty of those who, though not dangerous as regards life or limb to themselves or others, are yet the subjects of 'proper care and control.' But their liberty is to be interfered with only as the statute directs.⁸²

Lord Coleridge was in dissent on the outcome in this case, but Lindley L.J., in the majority, comments as follows:

The object of the statute is not to enable justices to adjudicate a person to be non compos mentis, but to enable them to place under proper care and control persons whom they are satisfied are lunatic and require to be so placed. They have to act in cases of emergency and of great danger, as well as in other cases; their measures are precautionary measures only; if they make a mistake, it can soon be corrected.⁸³

The court did appear to find that the dangerousness criterion had been loosened as a result of the statute, but it does not appear to have been discarded completely.

Of these, only Whitfield involved a county asylum, the rest referring to committals to private madhouses. Even Whitfield involved the admission of an individual under the provisions regarding insane persons wandering at large, and so as discussed above, his pauper status was somewhat ambiguous. As such, the effect of the cases on perceptions of pauper committals is not clear cut. Perhaps because of

⁸²15 Q.B. 122 (C.A.) at 132.

⁸³15 Q.B. 122 (C.A.) at 149 f. Some mention should be made of R. v. Ellis (1844), 14 L.J. (N.S.) M.C. 1 (Q.B.) where Coleridge J. indicates that the purpose of the asylum act was to "provide a proper place of confinement for pauper lunatics and ... to get rid of the nuisance of the miserable parochial care to which such paupers were before left in many instances." [at 3] This does not appear to be inconsistent with his other pronouncements, although it admittedly puts rather a different cast on them. This was not a committal case, however, and should thus not be read as defining standards of committal.

the concern with dangerousness in eighteenth century poor law statutes, there does seem to have been some influence on the standards understood to be applicable to the insane poor. The charge to the jury in Nottidge, for example, provoked the Lunacy Commission into publishing an open letter of objection in 1849.⁸⁴ This letter referred equally to admissions to county asylums and private madhouses.

The concern about dangerousness is to be considered in the context of a strain of modern scholarship which has portrayed the asylum as accumulating social casualties of the nineteenth century. Andrew Scull is most frequently quoted on this point:

And yet, if asylums, and the activities of those running them, did not transform their inmates into upright citizens, they did at least get rid of troublesome people for the rest of us. By not inquiring too deeply into what went on behind asylum walls, and by not being too sceptical of the officially constructed reality, people were (are) rewarded with a comforting reassurance about the essentially benign character of their society and the way it dealt (deals) with its deviants and misfits. Granting a few individuals the status and perquisites ordinarily thought to be reserved for those with genuine expertise and esoteric knowledge was a small price to pay for the satisfaction of knowing that crazy people were getting the best treatment science could provide, and for the comfortable feelings which could be aroused by contemplating the contrast between the present 'humane' and 'civilized' approach to the 'mentally ill' with the barbarism of the past.⁸⁵

A similar point is made by David Mellett:

[T]he asylum, originally designed for aberrant members of the middling ranks of society, gradually became a public house of detention for people who acted oddly,

⁸⁴PP 1849 (620) xlvi 381.

⁸⁵"Mad-doctors and Magistrates: English psychiatry's struggle for professional autonomy in the nineteenth century". 17 Arch. Europ. Sociol. (1976) 279 at 303 f.

or who had no place to go: alcoholics, geriatrics, depressives, paranoids. In other words, NOT the stereotyped lunatics of earlier periods, but pathetic victims of daily life in a brutalising society filled the wards of Victorian asylums.⁸⁶

There is a point of contact here with the passage from Dorothy Smith, cited above. For Smith, the documents involved "creating an order, a coherence, at those points where members of a community have been unable or unwilling to find it in the behaviour of a particular individual,"⁸⁷ a vision not necessarily inconsistent with the social casualties and misfits of Scull's and Mellett's work. This transfer is problematic, however. Where Nelken was able to examine the behaviour of harassment officers, landlords and tenants to assess what transformations were made during the keeping of documents, the historian does not have this luxury: the situated reality of the subjects of historical documents is gone forever.

The attribution of characteristics to this situated reality creates the risk of warping understanding of social policy. In the case at hand, it becomes much too easy to portray the behaviour of the nineteenth century actors in a simplistic and judgmental way, as for example imposing an 'out of sight, out of mind' policy on the unattractive of society. An element of this can be seen in the quotation from Scull, above. The situation is more complicated, however, for the nineteenth century had other institutions in which the unattractive could have been hidden, the workhouse being the most obvious. More to the point, the understanding of lunacy created by the admission documents is not congruent with the category of "pathetic victims of daily life in a brutalizing society": where the case books might sometimes perceive the insane person in the context of a social casualty, the admission documents focused on the inmate as a problem of order. Those admitted to the asylum were not merely

⁸⁶The Prerogative of Asylumdome, (New York: Garland, 1982), at 11.

⁸⁷"K is Mentally Ill: The Anatomy of a Factual Account", in Texts, Facts, and Femininity, *supra*, at 44. This is not an extension of the argument which would be made by Smith, who refuses to make any statement about K, her subject, beyond that which is contained in the factual account, and certainly makes no claim as to K's mental state.

mad; they were people whose behaviour required the intensive surveillance and disciplinary structures of the asylum.

Asylum admissions from the workhouse are administratively distinguishable from admissions from a domestic setting. The workhouse was already an environment of relatively intensive supervision by poor law staff, where conduct did not go unnoticed. Admissions from the workhouse also appear to have been triggered by behaviour of the inmate, but the application for admission to the asylum was organized by staff, not family as had been the case with domestic admissions. Of particular importance in this process appears to be the nurse or attendant of the insane wards of the workhouse, where they existed (particularly at Leicester), since much of the conduct which formed the basis of the application occurred at night, when other staff were not present. The admission documents would suggest that the master of the workhouse was at least consulted in the decision as to whether to organize an asylum admission application for someone. The medical officer of the facility might also be involved in the decision as to whether an application should be commenced, but this seems to have been contingent on the interest he showed in the insane persons. Often, the portion of the admission form detailing facts indicating insanity observed personally by the doctor is, as for domestic admissions, merely an account of one interview with the inmate.

These documents, like those for domestic admissions, focus on the insane as a problem of order. Dangerousness was still a common factor, with over seventy per cent identifiably dangerous to others or suicidal from their admission documents. The documents for Sarah Shaw, admitted in 1862 from Barrow on Soar workhouse, are typical:

[facts observed:] Restless wandering, incoherent and obscene conversation, she imagines that she is going to marry an inmate of the workhouse who is an idiot.

[facts communicated by others:] Hannah Osborne and other inmates of the Workhouse. S. Shaw constantly uses very bad language, frequently pulls up her clothes

in the presence of others, if remonstrated with for so doing, she becomes very violent, strikes or throws anything she can lay her hands on at the person and is with great difficulty restrained from breaking the windows of the ward.⁸⁸

Nonetheless, where less than seven per cent of domestic admissions could not be identified as dangerous or suicidal, twenty-three of the seventy-seven workhouse admissions, or almost thirty per cent could be so identified. Of these, nineteen could be identified as unmanageable. William Chamberlain provides an example of this:

[facts observed:] Very childish desires and pursuits, vacant countenance with receding forehead, vague unsteady wandering eye.

[facts communicated by others:] Very dirty in his habits, noisy, exposes his person, undresses himself and walks about quite naked, communicated by Mr. Gillespie the Master of the Union.⁸⁹

The litany of night wandering, exposure of person, restlessness, swearing and shouting in a disruptive manner, and violent conduct run throughout the cases. Issues such as wandering and violent conduct were by no means absent from the domestic admission documents, but in that context, the issue seems to have been whether the individual was safe, or adequately cared for in the domestic setting. In the workhouse cases, the issue seems at least in part to have been the efficient management of the house. When the Hitch report in 1844 recommended the removal of a number of paupers from the workhouse to the asylum, the poor law medical officer provided the following response:

Reynolds, Homer, Levin, Barfoot, Hobill, Robinson, and

⁸⁸LRO DE 3533/228; adm. 04 September 1862. Hannah Osborne was apparently in charge of insane paupers at this workhouse: v. admission documents of Mary Greenwood, adm. 17 October 1862, where she was also quoted.

⁸⁹LRO DE 3533/228; adm. 02 August 1864. 'Dirty habits' was a reference to incontinence.

Harris have been removed to the Lunatic Asylum

Henry Killingsworth is quiet, harmless and manageable

Derry is a case of Melancholia, he is quite manageable

Gurden has much improved and is quiet and manageable

Brown is still ill tempered and sullen and will not work,
+ he is however manageable

Wright, Sarah, is more knave than fool and though ill
tempered is manageable

Sandford is still irritable and when aroused dangerous,
+ he had been managed without difficulty or accident

Hand Susannah. Is harmless quiet and industrious, she
appears very comfortable.⁹⁰

Once again, it is tempting to speculate in the mould of Scull and Mellett that the asylum was being used as a "dump for the awkward and inconvenient of all descriptions";⁹¹ but once again, this overstates the case. The admission documents did include facts to demonstrate the madness of the individuals; and most were understood to be actually dangerous. The argument can certainly be no stronger than the following comment of Janet Saunders regarding the weak-minded in prisons:

It is tempting to speculate whether the label of weak-minded was not in some cases merely a label for individuals who doggedly refused to give in and accept their role as repentant sinners quietly working out their punishment. The sources, however, allow only the conclusion that people labelled as weak-minded represented a perpetual problem for the prison authorities, and were viewed as a distinct category of

⁹⁰Contained in letter from Leicester Guardians to the Poor Law Commissioners, LRO G/12/57d/1, 17 August 1844.

⁹¹Scull, Museums of Madness, *supra*, at 250.

deviant, requiring new institutional provisions.⁹²

The focus on manageability is not surprising. The essential concern of the workhouse staff was the good administration of the workhouse, and insofar as the insane compromised that order, the workhouse staff would have viewed them as problematic. What is more interesting is that this criterion was adopted by the Lunacy Commissioners in their local dealings with poor law officials. Consider the following report from Commissioner Wilkes about two inmates of the Barrow on Soar workhouse in 1858:

Thomas Ferne is insane, and is very restless and troublesome, and I recommend him to be removed to the Asylum. Robert Jarrett is very noisy and greatly disrupts the other inmates of the ward, and on this account I think he is unfit to be kept here. This workhouse is not at all adapted for patients who are at all troublesome or excited, and only the most quiet class of weak minded persons should be allowed to be sent to, or detained in it.⁹³

In this case, it was the response of the guardians which referred to possibility of cure, albeit along with criteria of manageability:

In reply to which I have been directed to state that in consequence of the entry made in the Visitors Book above referred to the Board of Guardians directed the Medical officer of the Workhouse to pay strict attention to the two cases for some time and report on the result to the Board with his opinion whether they are proper persons to be sent to the Lunatic Asylum or not and he has done so and his opinion is that they are not[;] they are neither dangerous to themselves or to others. Thomas Fern is suffering from softening of the Brain

⁹²"Quarantining the weak-minded: psychiatric definitions of degeneracy and the late-Victorian asylum", in Bynum, Porter and Shepherd, eds., The Anatomy of Madness, vol. III, (London: Routledge, 1988) at 280 f.

⁹³Contained in correspondence between Barrow on Soar Union and the Poor Law Board, PRO MH 12/6401, 28 October 1858.

and is paralysed and bedridden and is unable to help himself or harm himself or others and Robert Jarratt is a person of rather weak intellect and has been so from infancy[;] he is 48 years of age he is not always observant in his language to his fellow inmates which is a complaint against him. The Medical Officer considers that no Medical or other treatment than that which they now receive in the Workhouse could improve their condition he therefore does not recommend their removal therefrom.⁹⁴

Conspicuous by its absence from the admission documents was the poor law imagery which characterized the asylum case books. In the case book context, it was argued that this imagery was used because of its ability to make the pauper appear appropriately placed in the asylum: the moral and physical effects of poverty were what the asylum was to address. The focus in the admission documents is instead on the problem of order. Certainly, it was this which justified the choice of the asylum as the institutional response to the pauper, but it did not merely define the institutional response, but also was a defining characteristic of lunacy itself, or at least lunacy as the term was to be understood for purposes of the asylum acts. It was the onset of dangerousness, an impulse to commit suicide, or, occasionally, unmanageable tendencies which were the relevant criteria to identify the individual as insane: that was when the 'length of time insane' was calculated from on the admission form. Occasionally, the failure of the relieving officer to make a complete identification between the problematic behaviour and the insanity reveals the association explicitly. Thus regarding length of time Robert Woodcock was said to be insane, it was said, "It has been coming on him for months but has not been dangerous till now."⁹⁵ For Sarah Homes, it was said, "Melancholy about a year, violent five days."⁹⁶ For most

⁹⁴PRO MH 12/6401, #4292/59; 27 January 1859.

⁹⁵LRO DE 3533/230, adm. 27 November 1869.

⁹⁶LRO DE 3533/225, adm. 31 July 1852.

of the documents, however, the association seems to have been complete and implicit.⁹⁷

There is no reason to believe that this was a convenient or cynical re-alignment of legal categories, creating a legal fiction of "length of time insane" being equated to "length of time violent". Rather, consistent with the sociological discussion of fact reporting above, it seems more convincing to argue that the people creating the documents believed what they were writing down. This is consistent with the legal and historical associations between insanity and violent, suicidal or unmanageable behaviour, discussed above. It is also consistent with some of the discourses from the asylum and Lunacy Commissioners themselves, discourses which emphasized how those requiring restraint in the workhouse could be managed without it in the asylum.

Lines between behaviour and insanity were thus not clear. It would be misleading to perceive the committal process as two separate decisions, first whether the individual was insane, and second, what was to be done with him or her. They were co-mingled and indistinguishable issues. The image is not of the psychiatric professional, assessing and diagnosing according to abstract criteria, but of local medical officers, without special training in insanity-related issues, making the best of the entirety of the situation before them.

Workhouse and Outdoor Relief of the Insane

The documentation for the care of the insane under the remainder of the poor

⁹⁷For the sceptics, it should be pointed out that there are only two other theoretically possible explanations. First, either the lengths of time insane or the dangerousness could be simply wrong, either through negligence or fraud on the part of the persons completing the documents. Negligence is unlikely, given the uniformity of both standards' appearance in the documents; and it is simply not convincing that all medical officers or relieving officers were party to a conspiracy. Alternatively, it is possible that very few people became dangerous after two or three months insane. This conflicts with the version of the Lunacy Commissioners, however, discussed below.

law system in Leicestershire and Rutland does not allow for the systematic analysis of the asylum case books or admission documents. The workhouse kept no helpful records as to how classifications were made, and the annual returns of insane paupers, some of which survive at the Public Record Office, contain little useful information. Assessment must rely on the patchier documents which remain in either correspondence files or minute books of local guardians, as well as what may be inferred from the asylum documents. As a result, little is known about workhouse inmates and outdoor relief from local sources.

The situations which did generate some existing documents tended to involve disputes as to whether an individual on outdoor relief or in the workhouse ought to have been in the asylum. This is not surprising, as the asylum acts provided a structure for such discussion, and the Lunacy Commissioners and poor law central authorities made it their business to ensure that these statutes were followed. There was once again an administrative context for such discussions. Much has already been said about the images of workhouse confinement in particular which is contained in the asylum case books and admission documents, but the limitations of sources which juxtapose the asylum with other poor law relief must be acknowledged. Such documents tend to be more revealing about asylum admission criteria and structures than about the remainder of the poor law care of the insane. It was argued above that the process of asylum admission did not distinguish clearly between the insanity of individuals and their dangerous, suicidal, or unmanageable behaviour. Paupers were assessed instead according to their entire situation as an undifferentiated whole. The best which can be gleaned from this about the remainder of the poor law is that for those on out-relief, this nexus of factors justifying asylum admission was not perceived to exist. This is, however, definition through negation: it says nothing about the nexus of factors which defined the understanding of other poor relief of the insane.

Regarding out-relief, for example, these documents place an emphasis on family situation of the insane person, and their own abilities, to show that they were not dangerous and therefore did not require asylum admission. Thus Hannah Mills

and Hannah Johnson, both of Barrow on Soar Union, were assessed by the guardians to be appropriate to leave on out relief, not because of the degree of their illness, but because of their behaviour:

In order to shew the opinion of the Medical Officer respecting their cases I have enclosed a copy of the last return to the Commissioners in Lunacy &c made by him which shews that he Mr. Wood visited them on the 29th March last (he resides in the same village where they live) and he describes them both as being 'harmless, cleanly and never required restraint'. They are each of them competent to manage their own domestic and other affairs and require neither restraint nor control and in the opinion of the guardians may with propriety continue to live as they have heretofore done in which opinion the Medical Officer coincides.⁹⁸

Similar comments were made regarding Ann Bull, aged seventy-seven and living alone on outdoor relief, by the medical officer of Billesdon Union:

In answer to the Poor Law Boards enquiries respecting Ann Bull of Newton Harcourt I beg to say that I consider her to be as safe living by herself as most persons of her age. She though an imbecile has the instincts of self-preservation pretty well developed. Indeed it can scarcely be said that she lives alone strictly speaking as a neighbour, a respectable woman, frequently goes into her house and looks after her wants.⁹⁹

The point was that these people were receiving adequate care, without the necessity of asylum admission.

Consideration of the insane in other branches of the poor law ought instead to

⁹⁸Correspondence between Barrow on Soar Union and the Poor Law Board, PRO MH 12/6401, # 16178/59, 23 April 1858.

⁹⁹Correspondence of Billesdon Union with Poor Law Board, PRO MH 12/6416, # 10777/65, 24 March 1865. See also comparable comments regarding Hannah Wade, in the same place.

consider the culture and administration of those other branches. The paucity of documents at the local level means that this enterprise is of necessity speculative.

Determination of insanity would become necessary for persons living in the community only when there was an application for relief. The 1834 Poor Law Report had divided paupers into able-bodied and "impotent", the latter being defined as everybody except the able-bodied.¹⁰⁰ The instructions to the Assistant Poor Law Commissioners for purposes of their investigations were marginally more forthcoming:

Under this head are comprised all those who are prevented, by disease of body or mind, by old age, or by infancy, from earning a part or the whole of their subsistence.¹⁰¹

Anne Digby explained the situation as follows:

Paradoxically, although the able-bodied had been a prime target for the reformers of 1834 in their policy of preventing the pauperization of the labouring class, the poor law administrators who implemented their policies never succeeded in defining who the able-bodied actually were. Like so much else in poor law history, the practice is more revealing than the policy and this suggests that the able-bodied were those aged 15 years or more who could support themselves by their own labour.¹⁰²

The situation was not paradoxical at all. The occasion for the assessment of an individual was the application for relief. This of course did not mean that the individuals identified were not insane, whatever that term meant, but rather merely that the occasion for the determination of their sanity was the application for relief.

¹⁰⁰PP 1834 (44) xxvii 1 at 24.

¹⁰¹PP 1834 (44) xxvii 1 at 249. The following paragraph directed the assistants as to specific matters for their investigations of treatment of the impotent, and specifically enjoined them to report on the provision made for lunatics and idiots. This use of ability to work as a reference point lasted into the twentieth century: v. Report of the Royal Commission on the Poor Laws and Relief of Distress (majority report), PP 1909 [4499] 1 at 272.

¹⁰²Pauper Palaces, (London: Routledge and Kegan Paul, 1978) at 144.

The Leicestershire documents support that ability to work was taken into account as an indicator of insanity. Sarah Rodwell was a pauper on outdoor relief identified as a lunatic by Dr. Hitch in his 1844 report. She had not been included in the lunacy return of that year, as the medical officer explained: "this woman is not deemed insane or an idiot, being capable of managing the house for her father and she also goes out washing."¹⁰³

Identifying the occasions for assessment in the workhouse is more problematic. It was argued in chapters two and three that the workhouse was increasingly composed of those who were unable to survive outside it: the sick, the old, the feeble, and the infirm, as well as the insane. There was general agreement that in practical terms, it might be difficult to tell the insane from some of these other groups. The practical differences between being identified as old or sick and identified as insane would be minimal: in either case, the more liberal dietary would be available, and the somewhat softened accommodation rules accorded to the non-able-bodied. Apart from visitation by the Commissioners in Lunacy little practical distinction would have been made in administrative terms between the insane and these other groups. It would not have been obvious to those running the house why the insane ought to be specially identified, as a distinct category from these other groups, and the poor law central authorities made no requirement of such separate identification.¹⁰⁴

The powers of the commissioners extended only to the insane in workhouses, and the commissioners therefore had to develop a working definition as to who these people were. In their investigations prior to their 1847 report on workhouses, they

¹⁰³Correspondence between Leicester Guardians and Poor Law Commissioners, LRO G/12/576/1, 31 October 1844. Hitch's report indicated that she was a widow, so she was probably on that basis that she was being relieved.

¹⁰⁴This was the topic of protracted correspondence between the Lunacy Commissioners and the Poor Law Commissioners, commencing with PRO MH 19/168, #1480R/47 (17 May 1847), 4748R/47 (29 May 1847), 12295/47 (28 August 1847). The Poor Law Commissioners did not insist on separate identification of the insane, except as an accounting entry. The Lunacy Commissioners complained that the insane were often not distinguished from the old and infirm, or children. The poor law authorities did not appear to see that as problematic.

discovered that there were generally a number of people in the workhouse who were not permitted by the master to leave at their own will, but who could be released only with the agreement of the guardians.¹⁰⁵ The commissioners turned this practice into the defining characteristic of lunacy in the workhouse:

With respect to the persons coming within the meaning of the term Lunatic ... [the commissioners were of the opinion that] the term was to be construed in its largest sense, as applying to all persons kept in workhouses, who, by reason of deficiency, infirmity, derangement, or other unsoundness of mind (whatever form it might assume, and whether they were violent, or harmless, curable or incurable), were not deemed competent to take care of themselves, or proper to be left entirely under their own guidance and control, without supervision of any kind; and of course as including all those who, in consequence of their mental condition, stood practically on a different footing, in respect to their personal liberty, from the ordinary paupers in a workhouse, and were not allowed to quit the house at their own sole discretion, upon an ordinary notice to the Master.¹⁰⁶

Their 1857 report on workhouses contained the essentially identical test.¹⁰⁷ These insane were not "proper persons to be confined, in the narrow and technical sense of the term, that is to say, as patients in a Lunatic Asylum" but equally not "fit to be left entirely at large".¹⁰⁸ This re-enforces the image of the insane as the old, the feeble, the harmless and the helpless.

In 1867, a practical reason for identification of the insane did arise, as unlike other paupers, their right to leave the facility could be formally curtailed. In the first

¹⁰⁵PP 1847 [858] in octavo, 1847-48 xxxii 371, at 285.

¹⁰⁶PP 1847 [858] in octavo, 1847-48 xxxii 371, at 239.

¹⁰⁷Supplement to the Twelfth Annual Report of the Commissioners in Lunacy, PP 1859 1st sess. (228) ix 1 at 14.

¹⁰⁸PP 1847 [858] in octavo, 1847-48 xxxii 371, at 249n.

half of October, 1867, immediately upon the act taking effect, seventy-two persons were ordered detained in the Leicester workhouse.¹⁰⁹ Unfortunately, while the record of these committals stated that these individuals were "certified by the Medical Officer ... as suffering from mental and bodily disease as renders them unfit to leave the workhouse", thus containing an implied reference to the commissioners' test, the actual medical certificates do not survive. The form of the certificate was not prescribed by statute or regulation, so that the amount and nature of information these certificates would have contained is a matter of speculation.

There was no way legally to force an individual into the workhouse. Insane persons presumably entered the workhouse when they felt unable to survive on their own, or when in practice forced by families unwilling or unable to care for them any longer. Also contained in the workhouse were persons transferred out of the asylum. It is difficult to identify a number here. From 1853 to 1867, 182 people were discharged either 'not improved' or 'relieved' (as distinct from 'cured') from the asylum, and it is a fair speculation that many of these may have entered the workhouse either directly from the asylum, or at some subsequent time. Even for those discharged 'cured', the cure was frequently not permanent, and a workhouse admission might be the eventual result. The Leicester guardians specifically justified keeping people in the workhouse on the basis that they had been discharged from the asylum.¹¹⁰

The process of categorization of the insane in workhouses appears to have had a somewhat fluid structure. At issue seems to have been matching the behaviour of the individuals with the behaviour on the various workhouse wards. Thus the minute of the creation of the first segregated area for the insane in the Leicester workhouse

¹⁰⁹Minutes of Leicester Union Board of Guardians, LRO G/12/8a/12, for 1 and 10 October 1867. Committals do not appear to have been routinely recorded in the guardians' minute book after this time.

¹¹⁰v. comments relating to Sarah Berrington and Samuel Bulls, correspondence between Leicester Guardians and Poor Law Commissioners, LRO G/12/576/1 (31 October 1844).

read as follows:

Read the Report of the Visiting Committee, that complaints had been made of the indecent practice of the aged Idiots it is recommended that a room be prepared for them apart from the Old Men which was ordered.¹¹¹

This approach is again consistent with general administrative precepts of the new poor law. At issue would have been whether the individual fit into the workhouse culture. Thus the comment of the medical officer regarding pauper lunatics identified in the Leicester workhouse by Dr. Hitch in 1844, but not included in the return of insane paupers of that date, is not surprising: "Mary Freer, Augusta Cowell, Mary Jarratt, John Price: Inmates of the Workhouse have never been classed as Lunatics or idiots, being orderly and quiet in their habits."¹¹²

The categorization within the workhouse was part of a protection against moral contagion. The construction of separate wards for the various moral categories of pauper, including the insane, was mandated by article 99 of the Consolidated Orders of the Poor Law Board:

The Guardians shall from time to time, after consulting the Medical officer, make such arrangements as they deem necessary with regard to persons labouring under any disease of body or mind.

Secondly. The Guardians shall, so far as circumstances will permit, further subdivide any of the classes enumerated in Article 98, with reference to the moral character or behaviour, or the previous habits of the inmates, or to such other grounds as may seem expedient.¹¹³

¹¹¹Leicester Board of Guardians, LRO G/12/8a/2 (13 July 1841).

¹¹²Correspondence between Leicester Guardians and Poor Law Commissioners, LRO G/12/576/1, 31 October 1844.

¹¹³William Cunningham Glen, The Consolidated and other Orders of the Poor Law Commissioners and the Poor Law Board, 4th ed., (London: Butterworths, 1859) at 58 ff.

The editorial footnote to these comments made it clear that this was to be a protection from moral contagion:

This is an important provision, enabling the Guardians to place persons of bad character in classes by themselves, so that they may not contaminate the virtuous and well-conducted inmates of the house.

Other categories which were given as cases where special wards were justified included "females of dissolute and disorderly habits" and vagrants, further emphasizing the purposes based in morality. The inclusion of the insane as a group requiring such a specialized ward may suggest that they were viewed as a part of this moral risk.

In Leicester, it was not so clear whether the insane were to be protected from immoral influences, or were the immoral influences from which others were to be protected. The argument for a new workhouse in 1845 relied in part on the possibility of providing better facilities for the insane. There was also to be better classification generally, through which the moral, were to be segregated from evil influences:

As a matter of course many of the inmates of a Workhouse are of a notoriously profligate character, the very refuse and dregs of society, and of whose reformation there is perhaps little to be hoped; but there are others who from misfortune, sickness, or accident, may have become inmates, and to whom the Workhouse instead of being a place of rest, is one of continual torment; compelled as they of necessity are, to occupy the same rooms, to associate with, and to be witnesses of the blasphemy, obscenity, and profaneness, of those whose only aim seems to be to annoy their more orderly companions, and set at nought the common decencies of life. With persons of weak minds need it be a matter of surprize if amid such associations they become corrupted, sinking to the level of their more depraved companions, and whether remaining in the Workhouse or returning to their friends, spreading the moral

pestilence with which they are infected.¹¹⁴

On this basis, it would be reasonable to expect that moral assessment would form a part of the decision as to whether an individual was to be placed in an insane ward, as well, perhaps, as an assessment of the risk that they be morally influenced. Unfortunately, documents do not survive to provide further illumination on this evaluation.

This assessment has been of necessity speculative, but it is all that can be done, given the documents available. It may well be that the decisions themselves were idiosyncratic and largely arbitrary. To carry the sociological views of fact-finding cited above to their ultimate conclusion, it is at least open to be argued that since the officials involved never went through the exercise of identifying what facts were relevant to the categorizations of people as insane in the workhouse and on outdoor relief, and writing them down, canons of interpretation never developed. This may overstate the case. The insane under out-relief and in the workhouse were subject to the decision-making structures of the new poor law. It seems excessive to suggest that since these structures left no records on the decisions of interest, that therefore the decisions were made in some sense arbitrarily. Nonetheless, as discussed above, it is consistent with the administrative practices which would be expected in the workhouse and on outdoor relief that these decisions would be ad hoc and relatively fluid in character. The fact that the decisions were not recorded in a fixed form would do nothing to restrict this fluidity.

¹¹⁴Pamphlet contained in correspondence between Leicester Union Guardians and Poor Law Commissioners, PRO MH 12/2471, at 9 f. (30 March 1845).

Chapter 6: The Lunacy Commissioners and the Soft Centre of Reform

As discussed above, the 1845 legislation created the commissioners in Lunacy as a central authority with a national mandate. While they provide the modern historian with a wealth of printed and manuscript sources, they were in a position of administrative and political weakness. Their involvement in the poor law structure at all was somewhat anomalous. Their official mandate in 1842 had only been to examine county asylums and private madhouses; they had added union workhouses to their task at their own initiative. While they did receive inspection powers for workhouses commencing in 1845, they received minimal formal enforcement powers either for these institutions or for county asylums. Politically, they were buffeted by the same resentment of centralization as the Poor Law Commissioners.¹

The anomalous nature of their involvement in poor law did not merely mean that they spoke from a position outside the main poor law hierarchy. It was also that their involvement in poor law of lunacy did not detract from their other duties, and throughout the nineteenth century, private madhouses were at the centre of their role. While the commissioners professed a particular concern for the care of pauper lunatics, institutions for pauper lunatics occupied by no means all of their time. County asylums were to be visited annually, by two commissioners. At Leicester, these visits normally lasted two days. Workhouses were normally visited by one commissioner only, and while those with large lunatic populations tended to be visited annually, others might be visited as seldom as once every three years. By comparison, the madhouse statutes required charitable hospitals to be visited by two commissioners, twice annually. These statutes also required two commissioners to

¹v. David Mellett, "Bureaucracy and Mental Illness", 25 Medical History (1981) 221 at 240.

visit provincial madhouses twice annually, and metropolitan madhouses four times per year.² Between the 1830s and 1870, the number of provincial madhouses varied between sixty-four and one hundred, and the number of metropolitan houses from thirty-nine to forty-seven. For these private and charitable facilities, the Lunacy Commission did not have a mere inspection function. Commissioners also had the authority to liberate patients, a power they were cautious about exercising, but which carried significant symbolic weight. In addition, the commissioners were the licensing authority for metropolitan madhouses.³

The structure and composition of the Lunacy Commission itself did not promote a united front. Unlike the poor law central authorities, where a staff of inspectors reported to a board of three commissioners who were responsible for policy-making, the Lunacy Commission included the inspectors on the board itself. This brought the policy-making into the hands of the people actually seeing conditions in local facilities, a system defended by Shaftesbury before the 1859 Select Committee on the basis that it provided the inspectors with increased respect and authority at the local level. It also meant a much larger board, with consequently increased possibilities of internal conflict. Eighteen men signed the 1844 report. The 1845 act appointed eleven commissioners,⁴ and the possibility for divergent attitudes to policy formulation corresponded to these larger numbers. Hervey details the diversity of the group, from former asylum superintendents (such as Gaskell and Wilkes), to private medical men with little knowledge or interest in lunacy but great evangelical zeal (Nairne), to those concerned about civil rights and wrongful committal (Pritchard), to those favouring centralized control (Shaftesbury and Gordon); to those favouring local control (Myle).⁵

²8 & 9 Vict., c. 100, c. 61. When two commissioners were to visit, one was to be medically trained, and the other a barrister.

³8 & 9 Vict., c. 100, s. 14.

⁴8 & 9 Vict., c. 100, s. 3.

⁵"The Lunacy Commission, 1845-60", diss., University of Bristol, 1987, at 32 and 140 ff.

The commission contained six paid commissioners, being three medical professionals and three barristers, who did the bulk of the inspections of the commission. For these six, the workload was considerable. In the six months ending 4 February 1858, for example, the six professional commissioners each made an average of 115 visits, seeing 5,717 patients and travelling 3,394 miles.⁶ The remaining commissioners seem to have had no more than mixed enthusiasm. Even Shaftesbury cannot be considered a zealot in this project. He apparently ceased completely to perform inspections himself in the 1860s,⁷ some twenty years before he ceased to chair the commission. His mammoth biography by Findlayson does not suggest an obsession with lunacy issues. For the critical period between 1842 and 1845, Findlayson portrays Shaftesbury as interested in the ten hours movement to the near exclusion of everything else; the commissioners' 1844 report and the 1845 acts merit only a brief mention. His involvement otherwise seems to have been limited primarily to weekly meetings on Monday afternoons, appointments he seems to have been relatively faithful at keeping, but also a time commitment he at least occasionally resented.⁸

This degree of diversity did not promote a uniform approach to issues. There does not even appear to have been a consensus on how insanity was to be understood. Shaftesbury had what Hervey describes as a "loose and popular perspective" of madness. Much of it he related to intemperance, but at other times he apparently ascribed it to commercial speculation or railway travel.⁹ At issue here is not a simple division between medical and non-medical views, for part of the prevailing medical

⁶PP 1859 1st sess. xxii 175 at 4 ff.

⁷Hervey, "The Lunacy Commission, 1845-60", *supra*, at 120.

⁸The Seventh Earl of Shaftesbury, 1801-1885, (London: Eyre Methuen, 1981) at 253. Consistent with this, it was the Commissioners' secretary, not Shaftesbury, who wrote the reports of the Commission.

⁹"A slavish bowing down: the Lunacy Commission and the psychiatric profession 1845-60", in The Anatomy of Madness, vol. II, ed. William F. Bynum et al., (London: Tavistock, 1985) 98 at 105.

thought was also that the pressures of civilization caused insanity.¹⁰ Instead there were a spectrum of opinions about contextualization both within and outside the medical community. Thus there was no doubt in Shaftesbury's mind that alcohol was a cause of insanity among the poor: "one half, and perhaps more, of the cases of insanity that prevail among the poorer classes arise from their habit of intoxication."¹¹ In this view medical opinion concurred,¹² but while there is nothing to suggest that the evangelical Shaftesbury saw this in other than moral terms, there was apparently not a consensus within the Medico-Psychological Association as to whether intemperance was a moral vice or a medical illness.¹³

While the reports of the commissioners were not explicitly moralistic regarding cases of alcoholism, their practice suggested an ambiguity as to whether asylum admission was to serve the purpose of cure or deterrence. At issue in the following quote was how long an individual whose insanity was caused by drunkenness ought to be detained after they had apparently recovered:

It has been our practice, in cases of this sort, to liberate the patient after a short confinement, if it be the first attack of Insanity from this cause, and if he appear to be aware of his misconduct, and to have a desire to reform his habits. In the event, however, of his being confined a second time owing to the same cause, we have felt that his probation ought to continue for a much longer period; and indeed we have felt that great responsibility has rested upon us in such a case and have at all times very reluctantly, -- and only after vainly endeavouring to induce the patient's friends to take charge of him, --

¹⁰See, for example, Daniel Hack Tuke, "Does Civilization favour the Generation of Mental Disease?", 4 Journal of Mental Science (1858) 94.

¹¹Testimony to the Select Committee, 1859, PP 1859 1st sess. (204) iii 75 at q. 52.

¹²v. Mellett, The Prerogative of Asylumdom, (New York, London: Garland, 1982) at 72 ff.

¹³Trevor Turner, "Not worth the powder and shot", in Berrios and Freeman, 150 Years of British Psychiatry, (London: Gaskell, 1991) 3 at 13.

resorted to our powers of liberation.¹⁴

In a case cited in the annual report of the Metropolitan Commissioners for the year 1837-8, this period of probation extended for several years.¹⁵

Consistent with Hervey's assessment, it is clear that Shaftesbury himself was not prepared to accord any intellectual monopoly to the medical profession in the assessment of the insane. Medical men constituted a minority of the Lunacy Commission from its inception, the remainder being barristers and laity.¹⁶ In evidence before the 1859 Select Committee, Shaftesbury early on in his testimony made clear the importance of non-medical commissioners:

I may explain to the Committee, for otherwise they might be mislead, and suppose that there were many matters that none but medical men could undertake; and a friend of mine said to me that he could not conceive what laymen had to do with matters of this sort; that the business transacted at the Board is entirely civil in 99 cases out of 100. A purely medical case does not come before us once in twenty Boards.¹⁷

¹⁴Report of the Metropolitan Commissioners in Lunacy to the Lord Chancellor, (London: Bradbury and Evans, 1844), at 175 f., reprinting PP [HL] 1844 xxvi 1.

¹⁵Contained in PP 1841 2nd sess., (56) vi 235 at 6.

¹⁶This arrangement was perceived by some doctors as a direct affront to their professionalism. Thus Thomas Wakely, Member of Parliament and editor of Lancet, stated regarding the appointment of barristers to the commission:

He did not suppose the noble Lord [Ashley] intended this proposition as an insult to the medical profession; but if it had been so intended, one of a more marked character could scarcely have been offered. [Hansard, 3rd ser., vol. 61, p.804 (17 March 1842).]

¹⁷PP 1859, 1st sess., (204) iii 75 at question 14. Robert Lutwedge, former secretary of the Lunacy Commission and by 1859, one of the barrister Commissioners, also testified to the 1859 Select Committee on this point: PP 1859 2nd sess. (156) vii 501 at 165 ff. He testified that the public would not be satisfied if the decision regarding sanity were made by legal commissioners only, and that medical

While these remarks would not have alienated the commission from those Justices of the Peace and poor law officials who did not perceive asylum admission as a purely medical matter, they did pose a direct challenge to medical professionalization.

At the same time, the mad doctors were the proprietors of licensed houses, and if the Lunacy Commission was to have influence in that sector, the profession could not be alienated. The medical pressures from both within and without the commission can be seen in their attitude to restraint in the 1844 report. This was published already almost half a century after the opening of the York Retreat, and large-scale restraint was a thing of the past. The medical debate was now over complete abolition of restraint, or moderate continuation in particular circumstances.¹⁸ The 1844 report had been highly prescriptive about much of asylum care, from exercise yards to heating systems, but on the restraint issue, the commissioners made no firm recommendation. Arguments were presented in favour of both positions.¹⁹ The failure to reach a firm conclusion on the commission may reflect disagreement among the commissioners themselves, or alternatively the need to ensure that none of the

commissioners were particularly useful in inquiring into delicate matters regarding women patients. [q. 2090] He further stated that the medical commissioners wanted the involvement of the legal commissioners in matters of discharge. [q. 2095]

¹⁸v. Nancy Tomes, "The Great Restraint Controversy: A Comparative Perspective on Anglo-American psychiatry in the Nineteenth Century", in Bynum, Porter and Shepperd, eds., The Anatomy of Madness, vol. III (London: Routledge, 1988) 190 at 193, 200. Tomes sees the debate regarding restraint in terms of the Lunacy Commission exerting centralized control on the medical profession. Her view relies on the Lunacy Commission adopting a stance in favour of complete non-restraint. Such a view does not appear in the 1844 report, and in subsequent annual reports, the commissioners seem to have been content to tolerate minimal restraint. Certainly the commissioners were attempting to influence the personnel in charge of the institutions, but it will be argued below that their focus was on physical surroundings, diet and regimen. While they had licensing authority for metropolitan workhouses, their powers to effect systematic change over provincial houses were, as with county asylums and workhouses, limited to inspection and reporting. The commissioners were thus not in a position to alienate the medical professionals who ran those establishments, by pressing a doctrinaire view of reform.

¹⁹Report of the Metropolitan Commissioners in Lunacy to the Lord Chancellor, (London: Bradbury and Evans, 1844) at 156 ff.

medical profession was alienated.²⁰

The profession's views of the commissioners were decidedly mixed.²¹ On the one hand, the appointment of doctors to the commission ensured a medical presence, and the commissioners were often supportive of medical interests; on the other, the professional aims of the asylum doctors brought them into conflict with the commissioners. Thus Bucknill's view that admitting physicians had sole authority to determine the appropriateness of committals would if successful have significantly curtailed the authority of the commissioners.

The mad doctors could be critical of appointments to the Lunacy Commission, particularly when the appointments were made by patronage. Thus when Hatchell claimed to have been appointed to the Lunacy Commission in 1858 in part on the basis that his experience with the Irish constabulary had given him frequent opportunities to inspect and treat lunatics, the Journal of Mental Science was scathing:

We are sorry to hear that insanity is so prevalent among the Irish constabulary, but why did Mr. Herbert omit to mention another possible source of experience which Dr. Hatchell has possessed. He has been household physician to the Lord Lieutenant, who has given him this piece of lunacy patronage; and surely his experience in the castle ought not to go for nothing, if his experience in the police station goes for so much.²²

The commissioners ran the perpetual risk of marginalization not merely by the

²⁰In theory, as a matter of policy, the Lunacy Commission did not address issues of medical practice at all, although Hervey argues that this rule was not universally followed: "A Slavish Bowing Down", supra, at 111. Hervey's comment relies in part on the commissioners' regulations regarding the use of shower baths, and in part points up the lack of clarity between medical issues and broader issues of regimen and discipline.

²¹See generally David Mellett, "Bureaucracy and Mental Illness", supra, at 240 ff.

²²"The New Commissioners in Lunacy". 4 Journal of Mental Science (1858) 127 at 128.

mad doctors, but also by the local authorities. The legislation provided no formal links with the poor law boards of guardians, relieving officers and medical officers who were central to the admission processes to the asylums, apart from those they might happen to see during their workhouse visits. Their lack of enforcement powers made them easy for the Justices of the Peace, poor law authorities, and asylum superintendents to ignore.

The temptation is therefore to discount them completely. In a sense, the case is stronger than Bartrip makes out for the factories and mines inspectorates.²³ Bartrip's argument is based on these inspectors having minimal efficacy due to their small scale. Here, the issue is not merely a relatively small inspectorate, but minimal real powers as well.

Certainly, it would be inappropriate to focus on the Lunacy Commission as central to the operation of the poor law of lunacy. In terms of the actual functioning of the system, they were largely an administrative side-show. They did do their best to influence matters, however, and in this regard a basic division of techniques can be identified. In their routine administrative operations, both with the poor law central authorities and local administrators, they attempted to build alliances. This is in contrast to their annual and special reports, which were directed first and foremost to their funder, the government, in an attempt not merely to further the reform of the institutions for the insane, but also to consolidate, or at least maintain, their own involvement in the administration of the system. In addition these reports provided something of a public face to the commission, again resulting in different discursive pressures.

Perhaps more importantly, the commission was a part of a process of re-conceptualizing county asylums from essentially local institutions, to a national system. Their function in this context was consistent with developments in other

²³"State Intervention in Mid-Nineteenth Century Britain: Fact or Fiction", 23 Journal of British Studies (1983) 63.

quarters. For example, as noted above, asylum superintendents had formed an organization in 1841. The commission's work was a further step in the same direction. The simple fact of national inspections, and annual reports in which the various institutions were described together, gave the asylums an identity as a system. Individual institutions could be compared, and one set of standards could apply. That step away from a conception of the asylum as a distinctly local institution does represent a change.

The Lunacy Commission and the Poor Law Central Authorities

The circumstances of the development of the poor law left the poor law of lunacy as a jurisdiction split between central authorities. The poor law central authorities were to oversee the poor law staff, and thus those responsible for much of the admission process. The poor law central authority and the Lunacy Commission each had inspection powers over workhouses, while the Lunacy Commission had exclusive inspection powers of county asylums and those lunatics, including paupers, lodged in private madhouses. The Lunacy Commissioners and the central poor law authorities thus had to make working arrangements with each other. Hervey portrays the relations between the two central authorities as unproductive, if not antagonistic: "In a classic case of divided responsibility, it proved easy for the Poor Law authorities at central and local level to collude in obstructing the Commission."²⁴

This portrays the poor law administration and the local authorities too much in the role of villains. There were certainly tensions between the two central authorities; this was perhaps inevitable given their overlapping jurisdictions. The involvement of the Lunacy Commission in asylum inspection in the mid-1840s was in part a political challenge to the new poor law. The Metropolitan Commissioners had expressed a particular interest in pauper lunacy, an interest reflected in their 1844

²⁴Hervey, "The Lunacy Commission, 1845-60", *supra*, at 309 f. Other scholars have portrayed relations as less antagonistic, but do not deal with the matter in depth: Mellett, "Bureaucracy and Mental Illness" at 236; Hodgkinson, "Provision for Pauper Lunatics, 1834-71", 10 *Medical History* (1966) 138.

report, and in their work after they received their national mandate. It is thus not unreasonable to expect a certain friction. The result was not simple antagonism, however, but a development of routine bureaucratic relations, threatened only briefly in the late 1850s.²⁵

Lunacy historians have tended to portray the new poor law solely in its punitive character.²⁶ Consistent with the Benthamite vision of greater intervention, the surviving documents also include indications of considerable support for asylum ideals. The Poor Law Commission had been aware of problems regarding pauper lunacy well before the Lunacy Commission received its national mandate in the 1840s. In 1835, Assistant Poor Law Commissioner William Gilbert wrote to the Poor Law Commission advocating an extended county asylum system in the strongest terms. Typical of the Benthamite attitudes of the new poor law, he advocated incorporating

²⁵The Lunacy Commission in 1858 published a supplemental report to its Twelfth Annual Report, which dealt specifically with workhouse care of the insane: PP 1859 1st sess. (228) ix 1. This report is discussed in detail in appendix 5, below. In this report, the commissioners were highly critical of workhouse care. This theme was carried over into their testimony before the Select Committee on Lunatics, 1859. The commissioners' attitudes to workhouse care will be discussed below. The Poor Law Board was not directly attacked by the report; in fact they were acknowledged by Shaftesbury as co-operative. Whether or not the central poor law authorities were intended as a target, they seem to have been highly offended at what they perceived as an unfair attack. The Commissioners were relatively quick to repair the damage. In February 1860, following the report and Select Committee, Foster, the secretary of the Lunacy Commission, arranged a meeting between the Commission and the Poor Law Board. Hervey describes the situation as follows:

He felt it was vital they should clearly understand each others views, so that the powers vested in each should be exercised in aid of the other, to produce the greatest benefit for the lunatic paupers. ["The Lunacy Commission 1845-60", at 319]

While the events of the late 1850's may have resulted in a cooling of relations, at least in the short term, it does not appear to have destroyed the bureaucratic relations between the authorities.

²⁶An exception is Ruth Hodgkinson, "Provision for Pauper Lunatics", *supra*; and Marlene Arieno, Victorian Lunatics, (Selinsgrove: Susquehanna University Press, and London and Toronto: Associated University Press, 1989), for example at 46 ff.

the asylums into a centralized system, to ensure the sharing of expertise as to which system of treatment would best effect a cure.

Nor was he insensitive to the humanitarian issues relating to asylum care. His advocacy for the large scale removal of mechanical restraint, which he had seen at Hanwell and Lincoln Asylums, was in terms at least as favourable as the Lunacy Commission would use nine years later:

Of late years the subject of lunatic treatment has attracted great public attention and some humane and intelligent men have brought all their energies, talents and humanity to the task of relieving the calamities of that large portion of the human race. Amongst these stands pre-eminently the name of the great 'Pinel', who threw open the doors of the 'Bicêtre' to the unfortunate inmates and with one bold stroke removed from their limbs the chains + fetters which they had borne for years, and which in many cases had worn through the flesh to the very bones. Since that period his example has been followed in France, and gentle treatment and kind management substituted for fetters, whips and dungeons.²⁷

He cited France, Germany and Prussia, where nation-wide systems of asylums were said to be in place. He himself proposed to organize unions to this end.²⁸ His scheme did not proceed. There was the immediate practical problem of a lack of legislative authority to unite unions,²⁹ at a time when a measure which might constitute a perceived expansion of the powers of the new poor law was not politically realistic. In addition, the scheme would have been controversial within the new poor

²⁷Correspondence between William Gilbert and the Poor Law Commissioners, undated [approx. 1 January 1835] PRO MH 32/26.

²⁸Correspondence between William Gilbert and the Poor Law Commissioners, 7 August 1835, PRO MH 32/26.

²⁹Ibid., letter dated 9 August 1835. Recall that a bill was introduced which would have remedied this difficulty in 1839, but was not successful: v. discussion chapter three, supra.

law itself. Gilbert's vision represented the new poor law at its most Benthamite: organized and proactive government, reforming the poor. In its other vision, from its Malthusian roots, the new poor law sought to integrate moral values to the market: the pauper was to be exposed to the divine traps in nature, not moved to an institution charged with "relieving the calamities of the poor". The scheme proposed by Gilbert fell squarely within these ambiguities.

The Poor Law Commission and Board were not blind to the issues surrounding lunatics in workhouses. They perused the returns of lunatics forwarded to their office from the local authorities, and in dubious cases sought further information from the clerk of the board of guardians to ensure that the individual ought not properly be in an asylum. The number of cases where they acted in this manner was small. In 1842, 115 inquiries were addressed to the guardians, with eleven persons eventually removed to the asylum; in 1843, 137 inquiries resulted in twenty-four removals. In their tenth annual report (1844), they commented:

We are aware that such inquiries by letter are far from being sufficient in themselves or satisfactory in all their results; and we feel, moreover, that the number of county asylums in England is still so small in proportion to the wants of the country, that the necessary facilities for affording the best treatment to the lunatic poor are not given. We have, in our former Reports adverted to this state of things, and we have expressed our regret at the deficiency.³⁰

Nor did this practice cease when the Lunacy Commission achieved its national mandate. The Leicestershire and Rutland examples show continued and persistent inquiries regarding people believed by the central poor law authority to be better placed in the asylum.³¹ A point of contact can be seen here with the poor law local

³⁰Tenth Annual Report of the Poor Law Commissioners, PP 1844 [560] xix 9 at 19 f.

³¹v. for example, inquiry to Barrow-on-Soar Union, 17 February 1854, regarding William Cooper, PRO MH 12/6400 5529, 7342/54; correspondence with Barrow-on-Soar Union, re Hannah Wills and Hannah Johnsen, commencing February 1859, PRO

authorities in the documents discussed above: inquiries were sent regarding those listed on returns as dangerous but not in the asylum, and those living alone on outdoor relief. While their success at obtaining removals to the asylum remained limited, their attempts and their interests were certainly bona fide.

At least in this context, the Poor Law Commissioners were generally supportive of county asylums. Their instructional letter to the boards of guardians in 1842 stated that dangerous lunatics ought to be detained in workhouses only for such time as was "necessary for taking the steps preparatory to his removal to a county Lunatic Asylum, or Licensed house",³² presumably well under the fourteen days the lunatic could be held in the workhouse by law. Consistent with the opinion of the Law Officers of the Crown, the instructional letter noted that insane paupers not dangerous could legally be kept in the workhouse, but it was sceptical of this practice.³³

Bureaucratic sibling rivalry was perhaps inevitable with the introduction of the national mandate of the Lunacy Commission in 1845. In general, however, there were greater pressures for bureaucratic accommodation and co-operation. This flowed not merely from the general nature of bureaucracies, but also from the precariousness of centralized administration itself. Centralized government was by no means a foregone conclusion, and a row between central authorities ran the risk of causing the collapse of both in a triumph of regionalism. The poor law and lunacy central authorities were influenced by similar collections of utilitarians, evangelicals and paternalists, suggesting affinities in political outlook. At the extreme, Chadwick and Shaftesbury

MH 12/6401 5887, 16178, 22303/59, 11531/60.

³²Eighth Annual Report of the Poor Law Commissioners, PP 1842 [359] xix 1 at 111, quoting Theobald, Treatise on the Poor Laws.

³³Eighth Annual Report of the Poor Law Commissioners, PP 1842 [359] xix 1 at 111. This letter was discussed in greater detail *supra*, chapter 3.

were apparently able to work together quite effectively on public health issues.³⁴ Tensions between the two bodies there may have been, but there were no irreconcilable differences.

Rather than covert challenges, relations between the two central authorities were marked generally by mutual support and administrative etiquette. The Poor Law Commissioners adopted strong interpretations of the 1845 lunacy legislation and instructed medical officers and boards of guardians accordingly. They rather tersely drew the attention of the medical officers to the punitive clauses for failing to report paupers as soon as they became lunatic:

And if any medical officer shall return any such pauper in any list as fit to be at large, or shall knowingly sign any such list, untruly setting forth any of the particulars required by this Act, he shall, for every such offence, forfeit any sum not less than ten, and not exceeding fifty pounds.³⁵

The admission processes were presented in the letter to boards of guardians as permitting no discretion, from the medical officer to the Justice, as it related to pauper lunatics settled in the union. The duties of the medical officer regarding returns of insane persons, and the penalties accruing to the medical officers for making false

³⁴Findlayson comments that they "began the active cooperation that was later to be a marked feature of the public health movement": v. The Seventh Earl of Shaftesbury, 1801-1885, *supra*, at 250. Chadwick's most recent biographer similarly appeared to see no conflict between the two men: v. Anthony Brundage, England's "Prussian Minister", (London and University Park: Pennsylvania State University Press, 1988) at chapter 8. Their work together in this field commenced in 1848, immediately after the demise of the Poor Law Commission of which Chadwick was the secretary, suggesting that any personal animosities from Chadwick's poor law days would not have dissipated by the time of their co-operation on the Board of Health.

³⁵Twelfth Annual Report of the Poor Law Commissioners, PP 1846 [704] xix 1, at appendix A(6), p. 51. Emphases in original.

statements, were detailed clearly.³⁶ Circular letters were dispatched to the guardians following all significant changes in the law in this period,³⁷ and the manuals prepared by poor law Assistant Secretary William Golden Lumley similarly provided a clear exposition of the duties of the various officers.³⁸

For their part, the Lunacy Commissioners relied on the poor law central authorities for much of the enforcement of the county asylum legislation. Poor law assistant commissioners in their inspections of workhouses routinely examined the report of inspections by the Lunacy Commissioners, and checked whether any recommendations or concerns had been addressed. A routine administrative relationship developed regarding the removal of insane paupers from the workhouse to the asylum: the Lunacy Commissioners not only made their views known in the workhouse visitors' book, but also notified the poor law central authorities, who in turn followed up on the matter with the local board of guardians. The assistant

³⁶Twelfth Annual Report of the Poor Law Commissioners, PP 1846 [704] xix 1, at appendix A(6), p. 52-55. Similar positions are taken by William Golden Lumley, the assistant secretary to the Poor Law Commissioners, in his treatise The New Lunacy Acts (London: Shaw, 1845) at xii, 160, 163. Both took the position that admission of lunatics not chargeable to the union was discretionary on the Justices: at 54 of Poor Law Commission Report, and 163 of Lumley. The Commissioners and Lumley both envisaged a problem of insufficient space in county asylums to allow proper implementation of the act. The Poor Law Commissioners thus took the position that the duty of medical officers to report insane persons took effect only "after an asylum shall be established for any county or borough under the provisions of this Act": at 51. Lumley commented merely "It is manifest from the provisions of this bill, that this provision cannot at present be carried into force. There are not sufficient asylums for all the paupers who are lunatic and at large, nor can there be for a long time to come.": at 160. He did not attempt to resolve this apparent contradiction.

³⁷v. for example appendix 14 to Sixth Annual Report of the Poor Law Board, PP 1854 [1797] xxix 333, and Fifteenth Annual Report of the Poor Law Board, PP 1863, [3197] xxii 1 at 22.

³⁸See, for example, Manuals of the Duties of Poor Law Officers: Master and Matron of the Workhouse, (London: Knight, 1869) at 51-2; Manuals of the Duties of Poor Law Officers. Medical Officer, (London: Knight, 1849), at 23, 28, 36-7, 50, 53; Manuals of the Duties of Poor Law Officers: Medical Officer, 3rd ed. (London: Knight, 1871) at 31-3, 58-60, 67-70.

commissioner would then do a final check during his next inspection. How successful this system was is open to some question. The Poor Law Board, in an understandable attempt to portray itself in a good light, suggested a relatively high success rate, commenting for example in 1848 that "for the most part the recommendations of those [i.e., the Lunacy] Commissioners have been promptly carried out, on the [Poor Law] Board communicating with the proper authorities."³⁹ The Lunacy Commissioners were not necessarily so positive, sometimes complaining of the limited powers of the Poor Law Board. Thus Shaftesbury in his testimony before the 1859 Select Committee on Lunatics stated:

We are constantly applying to the Poor Law Board to give us assistance; the Poor Law Board, I must say, have always from the very beginning shown the Commissioners the greatest kindness, and have given us assistance upon all occasions to the full extent of their means; but they constantly say, 'It is very well, but we have no power to do what you wish.'⁴⁰

Notwithstanding these reservations regarding efficacy, the Lunacy Commission preferred to act through the poor law central authorities. For example, when the commissioners believed that clerks to boards of guardians were failing to send on the returns of insane paupers, they turned to the Poor Law Board to intervene with the local authorities.⁴¹ And their references to the goodwill and assistance of the poor law central authorities were almost routine in their annual reports.⁴²

³⁹First Annual Report of the Poor Law Board, PP 1849 [1024] xxv 1, at 8.

⁴⁰17 March 1859, PP 1859 1st sess. (204) iii 75, q. 619.

⁴¹Thirteenth Annual Report of the Lunacy Commissioners, PP 1859 2nd sess, (204) xiv 529 at 75.

⁴²See, for example, Supplementary Report of the Lunacy Commissioners, PP 1847 [858] in octavo 1847-8 xxxii 371 at 262; Third Annual Report, PP 1849 [1028] xxii 381 at 7; Fourth Annual Report, PP 1850 (291) xxiii 363 at 14; Fifth Annual Report, PP 1850 (735) xxiii 393 at 12; Ninth Annual Report, PP 1854-5 (240) xvii 533 at 34; testimony of Shaftesbury before the Select Committee on Lunatics, 17 March 1859, PP 1859 1st Session (204) iii 75 at question 688, testimony of Robert Lutwedge (Secretary to Commissioners in Lunacy, 1845 to 1855; Commissioner in Lunacy

The Lunacy Commissioners respect of the administrative balance created with the poor law central authorities went so far as to preclude the use of relatively easy techniques which would have jeopardized these relations, a position apparent in the following excerpt from Lord Shaftesbury's testimony before the 1859 Select Committee, under the questioning of Sir George Grey:

[612:] ... If the Commissioners in Lunacy have the lists
of all these pauper lunatics, and ascertain that many of

thereafter) to Select Committee on Lunatics, 4 August 1859, PP. 1859 2nd session (156) vii 501 at question 2231, and Twentieth Annual Report, PP 1866 (317) xxxii 1 at 18. These compliments must be taken somewhat critically, as the annual reports were to place the Commission in a good light with the government, its funder. Nonetheless, the pressure to avoid the appearance of conflict for funding purposes cannot be entirely separate from the pressure to avoid conflict in working relations between the bodies.

Nicholas Hervey argues that the Lunacy Commission's compliments of the central poor law authority were largely disingenuous. "Almost without exception, its [i.e., the Lunacy Commission's] attempts to get support for wider policy changes were opposed.": "The Lunacy Commission 1845-60", *supra*, at p. 319. This conclusion is based on several factors. The central poor law authority failed to advocate administrative and legal pressures on medical officers who failed to turn in the returns required by law, instead pointing out that such matters were within the legal authority of the Lunacy Commission: p. 314. Hervey argues that placing this responsibility on the Lunacy Commission was impractical; it is not obvious why it would have been more practical, had it been performed by the poor law central authority. The poor law central authorities also apparently did not necessarily implement changes in workhouse administration, regulation and record-keeping as recommended by the Commissioners in Lunacy: pp. 315 ff. The Commissioners request in this regard did not merely extend to lunatics in the workhouse. They were instead arguing as to how records for the workhouse as a whole ought to be kept, along with greater involvement in classification of all workhouse inmates: v. letter from Lunacy Commissioners to Poor Law Commissioners, PRO MH/19 168 #2295/47 (22 July 1847). A note from Assistant Commissioner Lumley on this document suggests that it was not practically possible to require the workhouse masters to vary their practice in this way. As will be discussed further below, the poor law central authorities favoured relatively clear demarcation between their responsibilities and those of the Lunacy Commission. The Lunacy Commission's suggestions would have involved the Commissioners in Lunacy in advising regarding the running of workhouses generally, and it is thus little wonder that the poor law authorities were unenthusiastic. While the result may have been frustrating to the commissioners, it is not obvious that the central poor law authority had much other option, if the focus and control of their board was to be maintained.

them are in the workhouses, have they not the power of bringing that fact to the knowledge of the justices, and cannot the justices upon their information, take all the necessary steps prescribed by this clause [i.e., the procedures for admission to the asylum] to place those lunatics under proper care? -- We have never considered that we had power to interfere to such an extent as that. 613. My question is, whether they have not the power of communicating the fact to the justices of the county? -- Yes; but we generally communicate with the Poor Law Board.⁴³

Shaftesbury continued that such intervention was not made, because the Justices resented their interference. It is thus open to question whether the approach through the Poor Law Board resulted from a belief that it was more effective in its dealings at the local level, or from a concern about bureaucratic politesse. Whatever the reason, the Lunacy Commissioners relied heavily on the poor law central authorities.

Consistent with this view of bureaucratic accommodation was a tendency of the poor law central authorities to minimize substantive overlap and develop complementary processes. While they were supportive of the actions of the Lunacy Commission, they did not encourage unnecessary divisions of responsibility. A particularly clear example concerned the licensing of Leicester workhouse as a private madhouse. The guardians of Leicester Union became concerned in 1852 that they could not actually detain insane persons in the newly refurbished lunatic wards of their workhouse. They wrote to the Poor Law Board for advice. Consistent with a policy of clearly defined influences between Poor Law Board and the Lunacy Commission, they were advised to send persons who ought not to be at large to county asylums:

I am d[irecte]d to state in reply that the [Poor Law] Board are of opinion that the G[uardia]ns have not, and that the law does not enable the B[oard] to confer on the G[uardia]ns, the power to detain against his will clearly declared any person of weak intellect in the W[ork]H[ouse] unless where there may be reasonable

⁴³PP 1859 1st sess. (204) iii 75.

grounds to suppose that such person is incapable of taking proper care of himself and that harm to the person of the Pauper is to be apprehended from his being at large. If however any case of difficulty sh[oul]d arise it is at all times in the power of the G[uardia]ns to take the proper steps for the removal of any pauper whom the med[ica]l officer can certify to be of insane or imbecile mind + a person proper to be confined to a Lunatic Asylum.⁴⁴

The Leicester guardians were not satisfied. They pointed out that many of the people at issue had already been discharged from the asylum, and that while not dangerous in the workhouse, could become dangerous if set at large and subjected to teasing by "ignorant and mischievous persons".⁴⁵ They requested the support of the Poor Law Board in an application to the Lunacy Commission that the wards be licensed as private madhouses. About this, the Poor Law Board was sceptical. Assistant Secretary Lumley raised the issue of conflicting jurisdiction specifically:

Is there not some objection to portions of the W[ork]H[ouse] being licensed for this purpose? I presume they become immediately subject to the control and inspection of the Comm[issione]rs in Lunacy under the 8 & 9 Vict. c. 100 in a diff[eren]t manner than as W[ork]H[ouse]s. Moreover there must be the same orders and certificates to enable the G[uardia]ns to retain the Lunatics in the licensed part of the W[ork]H[ouse] as in the County Asylum. I think upon the whole the G[uardia]ns w[oul]d be embarrassed rather than assisted by the licence.

Assistant Commissioner Weale agreed: "I think it highly objectionable that any portion of the Workhouse should be licensed as a Lunatic Asylum: it will be sure to

⁴⁴18 December 1852, PRO MH 12/6476, 47433R/52. The letter from the Leicester guardians was dated 9 December 1852, and is contained as number 47433/52 in the same volume.

⁴⁵23 December 1852, PRO MH 12/6476, 49465/52.

lead to irregularities and confusion."⁴⁶ A letter from the Lunacy Commission made clear the legal situation: it was not for the Lunacy Commission, but for the local magistrates to license private facilities outside the metropolitan area.⁴⁷ In this context, the letter from the Board to the guardians was almost disingenuous:

... [the Poor Law Board] have comm[unicate]d with the C[ommissione]rs in Lunacy on the subject of the proposal of the G[uardia]ns of the Leicester Union that some of the wards in the Union W[ork]H[ouse] should be licensed by the Com[missione]rs for the reception of harmless Lunatics + Idiots; and they are informed that the C[ommi]s[sione]rs in Lunacy have no authority to grant such a Licence.

The C[ommissione]rs in Lunacy are also of opinion, in which opinion the B[oard] concur, that it would be inexpedient to have, attached to the Un[ion] W[ork]H[ouse], wards licensed for the reception of Lunatics + Idiots.⁴⁸

The powers of the local magistrates to license the facility were not mentioned. The referent of the view that the Lunacy Commission considered the matter "inexpedient" is not clear; it is not in their letter to the Board. It may not be pure invention on the part of the Board, however. The maintenance of lunatics in workhouses was a thorny issue for the Lunacy Commissioners. While they had licensed Marylebone workhouse themselves,⁴⁹ they had been reluctant to do so, and may well have not wished to emphasize the local power outside the metropolis to do this, lest some unions use this power to circumvent the county asylum system completely. In any event, what is relevant here is that the Poor Law Board was as discouraging as possible to the guardians of Leicester in their licensing concerns, and their motivation in so doing was

⁴⁶The comments of Lumley and Weale are contained with the letter of the Leicester guardians, in PRO MH 12/6467.

⁴⁷20 January 1853, PRO MH 12/6467, 2731/53.

⁴⁸19 February 1853, PRO MH 12/6476, 2731/53.

⁴⁹v. Report of the Poor Law Commissioners upon the Relief of the Poor in the Parishes of St. Marylebone and St. Pancras, PP 1847 [802] xxviii 275.

to preserve a clear demarcation of authority between themselves and the Lunacy Commission.

The demarcation of authority can also be seen in the practices regarding workhouse visitation. Where workhouse inspections by the Commissioners in Lunacy were of course focused on institutional standards and the administration of the lunatics in the workhouse, inspections by assistant poor law commissioners tended not to inquire too deeply into lunacy matters. They did note any recommendations on the report of the Lunacy Commissioners' visits, and they followed up on those recommendations; they did not inspect lunatic wards in a particular way, nor did they delve into issues of administration of lunatics beyond what was apparent on the face of the documentation before them, and the views of the medical officer of the house.⁵⁰ The mode of treatment of insane paupers qua insane was seen by the poor law inspectors; it was not inquired into in depth.

The Lunacy Commissioners and Local Relations

As Nick Hervey has argued, the Lunacy Commission pursued a conciliatory style with the local officials.⁵¹ In their role as a local inspectorate, the commissioners should be understood less as enforcers than as attempting to establish working relationships with local officials. Their effect was not through legal fiat, but persuasion. In this, the commissioners' approach resembled the techniques used by other inspectorates. Esther Moir describes the relationship as follows:

It was most important for the development of happy relations between central and local governments that the inspectors were the sort of men who could generally command the respect of the magistrates. They were very far from bureaucratic civil servants; in fact they

⁵⁰For discussion of the processes of inspection of the assistant poor law commissioners, v. testimony of H.B. Farnall to the Select Committee on Lunatics, 24 March 1859, PP 1859 1st sess (204) iii 75 at questions 1650-54, 1665-1672.

⁵¹"The Lunacy Commission, 1845-60", at 94 f. and chapters 5 and 6.

formed almost a new intelligentsia. The great majority of them (the total was 140) came from the upper ranks of the middle class: mostly the sons of country gentry or professional men. Among the assistant Poor Law Commissioners, for example, eight were magistrates themselves, and many others owned or managed landed property. They upheld the same orthodoxies as the body of men who formed the Bench of Justices, not least a sturdy Christianity and a deeply rooted moral code which emphasized 'character', and which would scorn to use its powers for unworthy ends.⁵²

Roberts speaks of this as a foundation of the revitalized nineteenth century paternalism: "One of the greatest forces within the politics of paternalism that led to a stronger paternal government was ... the actual existence of a paternal government and of men in that paternal government who wanted it to grow stronger." The strategy was to form a moral partnership between local administrators and central government: "The assistant poor-law commissioners sought the same alliance. For most of them, being squires or younger sons of the nobility, it came naturally."⁵³

The image here is not one of confrontation, but of alliance; of players not manipulated by autocracy, but through diplomatic approaches. The development and implementation of policy was not through legal strong-arm tactics, but through webs of influence.

Where the Lunacy was not typical of other central authorities was in its reporting structures. In the poor law administration, for example, assistant commissioners were the inspectors, and they would report to the Poor Law Commissioners or Poor Law Board. In the lunacy realm, it was the Lunacy Commissioners themselves who were charged with the task of inspecting. While this task fell disproportionately on the half dozen paid Lunacy Commissioners, it was not

⁵²The Justice of the Peace, (Harmondsworth: Penguin, 1969), at 149. The same point is made by Roberts in Paternalism in Early Victorian England, (London: Croom Helm, 1979) at 207.

⁵³Paternalism in Victorian England, *supra*, at 207.

their exclusive duty. Even Shaftesbury made tours of inspection as late as the 1860s.⁵⁴ Alliances formed in the investigative processes would be even more influential in policy-making at the central level.

The success and effectiveness of this approach is difficult to assess. In Leicestershire and Rutland, both the asylum and the workhouses received generally favourable reports, and perhaps as a result no indication of antagonism between the local authorities and the commissioners. These inspection reports may be perceived as part of the alliance-building objective of the commissioners, however. The approach appears to have been one of incremental improvement. The reports offered general praise, followed up by a suggestion to make the institution just that little bit better. The asylum reports, for example, generally began with general praise, typically that the inmates were "remarkably quiet and orderly". Numbers attending church were cited with approval. The 1854 report went on to praise increased employment offered to the patients, but lamented the need for a better chapel and wash-house. In 1855, particular praise was accorded the number of inmates taking exercise, but an increase in furnishings was suggested. In 1856, it was a few too many women in seclusion. In 1858, the introduction of washstands was particularly praised, and insufficient bath water criticised.⁵⁵

Surviving documents do not provide direct insight into how local officials viewed these reports, although their inclusion in the asylum annual reports starting in 1854 may suggest some pride, and consequent success of the commissioners at the establishment of a working relationship. Various suggestions of the commissioners were carried into effect: wooden floors replaced stone ones, additional employment was provided for inmates, furnishings were upgraded. The commissioners were not always successful, however. Perhaps consistent with the asylum as a poor law institution, their recommendation that a house for the patients be acquired at the sea

⁵⁴Nicholas Hervey, "The Lunacy Commission 1845-60", supra, at 122.

⁵⁵Copies of all these reports are contained in LRO DE 3533/13.

side fell on deaf ears.⁵⁶ Complaints about more than one individual using the same bath water were raised in 1858; the problem remained in 1867.⁵⁷

The events surrounding the appointment of an assistant medical officer suggests that it may not have been the Justices on the visiting committee, but rather the medical superintendent who was blocking the recommendations. The appointment of such an individual had been recommended by the Lunacy Commissioners in their reports of 1864 and 1865. The visiting committee noted that no reason had been given for the request, and in fact that the commissioners had been firm in their praise of the running of the asylum. The medical superintendent, John Buck, had been clear in 1858 that he wanted no assistant,⁵⁸ and his mind had not been changed since that time. He specifically did not complain of the onerousness of his duties, and indicated that it was some of the duties of the head attendant which he would transfer to an assistant superintendent, if one were hired. What is particularly astonishing is that Buck stated he would only recommend the appointment of an assistant, if he (Buck) were given a new house separate from the asylum building, an expense which, not surprisingly, the visiting committee did not think it could justify.⁵⁹ It seems a reasonable surmise that Buck saw the appointment of an assistant as a threat to his authority or prestige in the institution. It is fair to wonder whether the commissioners' statement the following year, that "the duties imposed upon the Medical

⁵⁶Report of the Lunacy Commissioners dated 5 and 6 August 1859, contained as appendix to Annual Report of the United Committee of Visitors of the Leicestershire and Rutland Lunatic Asylum (1860), LRO DE 3533/13.

⁵⁷Report of Lunacy Commission dated 27 Oct 1858; contained in Tenth Annual Report of the United Committee of Visitors of the Leicestershire and Rutland Lunatic Asylum (1858), and Report of Lunacy Commission, 23 April 1867, contained in Nineteenth Annual Report of the United Committee of Visitors of the Leicestershire and Rutland Lunatic Asylum (1867). Both asylum annual reports contained in LRO DE 3533/13.

⁵⁸v. Twenty-Second Annual Report of the United Committee of Visitors to the Leicestershire and Rutland Lunatic Asylum (1858), LRO DE 3533/13.

⁵⁹v. Eighteenth Annual Report of the United Committee of Visitors of the Leicestershire and Rutland Lunatic Asylum (1866), LRO DE 3533/13.

Superintendent in this large Asylum cannot be fully performed with justice to himself, and due regard to the medical treatment of the patients, by any one individual however zealous and efficient"⁶⁰ was to convince the Justices or the medical superintendent himself.⁶¹

The incrementalist approach can also be seen in the commissioners dealings with workhouses in Leicestershire. A couple of examples will demonstrate the similarity between the commissioners' asylum and workhouse reports, and of the responses of the local officials. The following are the comments regarding the Leicester workhouse wards, the largest in the county, contained in the report of the visit of the Lunacy Commissioner in 1854:

There are at present 42 patient in this Workhouse, all of whom are kept separate from the other inhabitants of the establishment. Each sex has a separate day room + bed rooms and are under the care of Attendants (a man and his Wife) who receive regular pay. the rooms were clean, at the time of our visit, the clothing of the patients good, and the bedding clean and sufficient.

We learned, on enquiry, that a large proportion of the patients of each sex are taken out, once or twice a week, for a walk into the Country adjoining the Town of

⁶⁰Report of Lunacy Commissioners, dated 27 November 1866, contained as appendix to Eighteenth Annual Report of the asylum (1866), LRO DE 3533/13. The assistant superintendent was not hired until after the Lunacy Commission's 1867 report. The appointment was justified by construction in the asylum resulting in capacity of the asylum rising by eighty patients. By 1872, Buck had his house, complete with covered portico attaching it to the remainder of the asylum.

⁶¹A similar dynamic is suggested by the concern about pauper and non-pauper mixing in the asylum. The Commissioners in Lunacy had advised the removal of non-pauper patients from the asylum, without success, in 1859 and 1860 in their reports on the Asylum. At this point, Buck favoured the same regulations for private and pauper patients and a system of segregation was not followed: v. Superintendent's Journal and Report Book, 11 October 1859, LRO DE 3533/83. By 1869, he had changed his mind, and no longer favoured such a mixture: "the private patient, when intelligent, is always discontented; and the pauper patient readily becomes his equal in this respect." v. Medical Superintendent's Report, 25 January 1869, contained in Twentieth Annual Report of Asylum (1868), LRO DE 3533/14. The complete segregation of private and pauper had been effected by 1874: v. Twenty-Sixth Annual Report of the Asylum, contained in LRO DE 3533/14.

Leicester. With the exception of a few Women, who are occupied in needlework, none of the patients appear to be employed. We strongly recommend that all who are capable of work, men as well as Women, should have the means of employment placed before them, and be induced to occupy themselves as much as possible. No patient is subjected to mechanical restraint, but two of them (hereinafter mentioned) are fastened in their rooms at night. The Attendants have each some hand-straps in their possession, which we have desired to be given up to the custody of the Master of the Workhouse.⁶²

The straps were promptly removed from the attendants, and work was introduced for the insane inmates. Women were given sewing and household work; men were to pick worsted or cotton waste:

This employment is simple without being too monotonous, and as the patients are capable the Guardians propose to employ them in other work, care being taken that it shall be of as agreeable character as possible.⁶³

The following report of Commissioner Campbell's visit to the Billesdon workhouse was typical of reports of smaller Leicestershire workhouses:

I have examined the insane and idiotic inmates. There are 5 men and 2 women. they are all quiet, harmless cases, and seem to be kindly treated. Thomas Jordan is very feeble from repeated attacks of epilepsy, and I recommend that a proper leaning arm-chair should be provided for is use.⁶⁴

⁶²A copy of this report is contained in the correspondence between the Leicester Union Guardians and the Poor Law Board, PRO MH 12/6477, #10997/54.

⁶³Correspondence between the Leicester Union Guardians and the Poor Law Board, PRO MH 12/6477, #15204/54.

⁶⁴Contained in correspondence between Billesdon Union and the Poor Law Board, PRO MH 12/6415, #30972/63 (27 July 1863).

The report of Assistant Poor Law Commissioner Robert Weale's visit to the workhouse on 15 February the following year indicates that the chair had been provided.⁶⁵

Even when the commissioners were more proactive, their approach might reflect the categorical structures of the local officials. Thus in assessing the appropriateness of the retention of insane individuals in workhouses, the issue reduced to behaviour. According to his testimony before the 1859 Select Committee, Lunacy Commissioner Robert Lutwedge stated that he had found the records at Barnstaple Union sufficiently bad that he had interviewed everyone in the workhouse.

[2227.] ... I found there eight persons who were decidedly of unsound mind, and incapable of taking care of themselves; one a decided lunatic, labouring under delusions, who was digging for the bones of her brother; she fancied she had a great number of children, and that she was pursued and persecuted, and she had been so insane for upwards of six months; upon my representation, she was removed to an asylum.

* * *

2229. With regard to the other seven cases, what was done?-- They were left there, because they were a perfectly harmless and quiet class; and because there is really not adequate accommodation in an asylum for a great number who we think would be better in asylums than in workhouses. I did not recommend, under the circumstances, that they should be sent to an asylum, because they were associated with the other paupers in the workhouse, and they might, in one sense, be properly retained there.⁶⁶

Conspicuous by its absence was any discussion of the prospect of cure. The claim

⁶⁵A copy of this report is contained in correspondence between Billesdon Union and the Poor Law Board, PRO MH 12/6415, #5948/64.

⁶⁶PP 1859 2nd sess. (156) vii 501 at questions 2227 sq.

that the seven were not removed to the asylum for reasons of space must be viewed somewhat critically. Barnstaple Union was in Devon, where John Bucknill ran the county asylum. Bucknill had testified two weeks earlier that "we never shut our gates; we have always admitted all patients who have been brought there with proper admission papers."⁶⁷ Bucknill's comment should not be taken completely uncritically either: given that he was advocating the virtues of asylum care, the philanthropic image of placing care above convenience may have had a propaganda effect. More relevant is that Lutwidge's justification for choosing which paupers to send involved an assessment of which were disruptive and which were harmless and quiet, manageable in the sense sometimes criticised elsewhere by the commission, in their more public discourses.

This is consistent with the justifications offered when the Lunacy Commissioners on rare occasions do exercise the power granted to them in 1862 to remove an individual from the workhouse to the asylum, as the following example contained in their seventeenth annual report shows:

It appeared from the correspondence which took place that the idiot was so destructive, dirty, and troublesome, that the Guardians had applied to the Justices in Petty Sessions for an order for his removal to an Asylum, but the Bench had refused the order, on the ground that he was not a dangerous lunatic, although it was shown that his habits were most filthy, that he was quite unmanageable, and that he greatly disturbed the other inmates of the house.⁶⁸

The practices of the Lunacy Commission therefore suggest that dangerousness and manageability were significant factors in their administrative policy. There is a congruence here with the practices identified in the last chapter, where the decision as to whether or not the individual was insane was not distinguishable from the

⁶⁷PP 1859 2nd sess. (156) vii 501 at question 1111.

⁶⁸PP 1863 xx (331) 437 at 25.

assessment of the behaviour of the individual. This further reinforces the image of the commissioners in their local dealings as working largely within the framework of the local views. The introduction of these views in the broader discursive context was more problematic, as will become clear in the next section.

Central Documents and Discourses

The alliance-building with the poor law central authorities and the local poor law officials and magistrates occurred largely out of the public perception. The Lunacy Commission also submitted annual and special reports which were published as part of the Parliamentary Papers. These were first and foremost reports to legislature, their funder and the source of their powers. At a time when central authorities were still controversial, this is more than a trivial statement of the obvious. The reports were an overt justification of the commission's existence.⁶⁹ They were also more public than the local reports, and as such were important to the commission's broader credibility.⁷⁰ This public nature also created a situation where issues relating to the care of the insane could be brought to light, pressure created for reform, and the agenda for the care of the insane affected. In addition, of course, the reports had to satisfy the diversity of individuals on the Lunacy Commission itself. It is within this political network that the reports are to be understood: certainly, they were intended to ensure the continued visibility of issues regarding care of the insane, but consistent with that and perhaps more immediately important, they were also to justify the continued mandate of the Lunacy Commission.

The annual reports developed a relatively pro forma character quite quickly. The Lunacy Commission was portrayed as vigilant and effective, priding itself in its

⁶⁹Their use in this regard appears quite explicitly in the parliamentary debates surrounding the continuation of the Metropolitan Commissioners in 1841: Hansard, vol. 59 (3rd ser.) 694, 697 (21 September 1841).

⁷⁰They were, for example, discussed in the Journal of Mental Science. The 1844 Report of the Metropolitan Commissioners was also published separately by Bradbury and Evans in 1844.

accomplishments, and making clear how much more needed to be done. Reports of private madhouses requiring correction and workhouses with lunatics in substandard care pepper the reports, along with recommendations for reform and the obligatory deluge of statistics. The annual reports by and large centred on private madhouses. Insofar as bulk is indicative, their annual report for 1861 for example included forty-four pages devoted to private establishments, eight pages to county asylums, and less than two pages to workhouses. In part, this can be seen as reflecting the numbers of institutions: that year, there were forty-one county asylums and 127 private institutions. This broad hierarchy is consistent with the priorities of the Lunacy Commission as established in the legislative history. They had first and foremost been inspectors of private facilities, and secondarily of county asylums. In addition, as noted above, their powers were greater regarding madhouses, suggesting that these may have occupied a more central place in their mandate.

The minimal attention to workhouses is notable, however. This relative lack of attention may have resulted from a variety of factors. As noted in chapter three, the commission acquired jurisdiction to inspect workhouses almost by accident. The lack of attention may reflect that historical marginalization of workhouses in the commissioners' role. It may also indicate that the legislators, who the reports were primarily intended to convince, were more interested in private madhouses than of the insane in workhouses. Finally, it may be that the commissioners themselves did not wish to emphasize their role in workhouse inspection. The commissioners were ambiguous in their annual and special reports as to the role of workhouses in the care of the insane, and a result may have been a de-emphasis in their reports.⁷¹

A sense of what the parliamentarians expected may perhaps be gleaned from the following comment of Thomas Wakley, Member of Parliament for Finchley and editor of the Lancet, in his opposition to a permanent mandate for the Metropolitan Commissioners in 1841:

⁷¹Regarding the commissioners and workhouse care, see appendix 5.

Though he admitted the existing commission had done essential service to the public and to the cause of humanity, it had fallen short in its effects of what the public had a right to expect. He had yet to learn whether they had furnished all the information that was looked for in the shape of reports, and whether the public had received any great information from their labours.⁷²

Information was what was wanted; information was provided, and in increasing quantities. The fifth annual report of the commissioners had contained thirteen pages.⁷³ The fourteenth annual report had grown to 101 pages, with an additional 157 pages of appendices.⁷⁴ This explosion of information is noted by David Mellett:

The Board was quick to become figure-conscious and the gathering and assembling of information was dangerously near to becoming an end in itself in the Commissioners' urgency to maintain a complete registry of all the lunatics in the kingdom, and of all persons having charge of them.⁷⁵

The emphasis in the annual reports was on the results of inspections. A variety of particular cases would be reported, generally with a summary comment as to how important the Lunacy Commission had been in ensuring standards of care, such as the following comment from their fifth annual report:

On reviewing the several entries made by the

⁷²Hansard, vol. 59 (3rd ser.) 694 (21 September 1841). The desire for information is consistent with Fraser's view of the nineteenth century fetish for facts:

The whole spirit of the age was geared to the accumulation of facts, for society had an insatiable appetite for knowledge of itself, with the mushrooming of statistical societies and surveys both by Government and private agency. [Evolution of the British Welfare State, 2nd ed., (London: Macmillan, 1984) at 117.]

⁷³PP 1850 (735) xxiii 393.

⁷⁴PP 1860 (338) xxxiv 231.

⁷⁵"Bureaucracy and Mental Illness", supra, at 235.

Commissioners who have during the preceding 12 months visited the various asylums, hospitals, and licensed houses subjected to our inspection, we have to report that they are generally in a very satisfactory condition. It has been thought expedient, indeed, in the course of these visits, to make numerous suggestions, having for their object the improvement of the various establishments, or the increase of the patients' comforts; but defects of a serious character have rarely been discovered, and when discovered have been, for the most part, remedied without delay. Upon the whole we have to report, that the character of the various institutions for the insane is in an improved and still advancing state; and the treatment of lunatic patients appears to us to be, for the most part, humane and judicious.⁷⁶

Reflecting the local relations of the Lunacy Commission, the image was of institutions improving incrementally, and the commission at the centre of that process.

The "character of the various institutions" was assessed largely in terms of physical surroundings, order, and regimen. Andrew Scull is cynical about this focus:

To judge by the space and emphasis allotted each topic, by the mid-1850s the question of curing asylum inmates ranked considerably below the urgent issue of the composition of the inmates' soup.⁷⁷

Scull sees this as a departure from an earlier emphasis on cure, and thus as part of the broader failure of reform. Whatever the merits of that view, it is also true that the reports had a productive function in creating an image for their readers of what the 'good' asylum was. This view fell at the intersection of the themes discussed in earlier chapters. The focus of the reports on the standards of the facility was not inconsistent with a concern about cure. The 1844 report did not draw a distinction between physical standards and the recovery of inmates. Instead, diet, exercise yards,

⁷⁶PP 1850 (735) xxiii 393 at 5.

⁷⁷The Most Solitary of Afflictions, (New Haven and London: Yale University Press, 1993) at 303.

and heating systems were seen as necessary features to aid the inmate's recovery of sanity. Physical standards in this context fell at the intersection of humanitarianism and cure. At the same time, the asylum was to be a place of order, where the nature of the regimen, supported by the very architecture of the building itself, was to render the uncontrollable docile.

This focus reflects the interest of the Home Office in the late 1840s. The Lunacy Commission had been reluctant to attempt a uniform set of rules for county asylums in 1846, but had acceded under pressure from the Home Office.⁷⁸ While the commission actually reported to the Lord Chancellor after 1845, the Home Office had responsibility for county asylum construction, and it was keen to establish minimum standards in these facilities. The continued focus on asylum standards can thus be seen as reflecting these political priorities.

While the attempt to impose nation-wide standards was apparently resisted by the medical commissioners,⁷⁹ the discussion of the standards of institutions did not otherwise emphasize the doctrinal disagreements and inconsistencies of the Lunacy Commission. Such disagreements can be seen in aspects of the annual reports, however, and also in both the special reports of the commission,⁸⁰ and their

⁷⁸See Hervey, "A Slavish Bowing Down", *supra*, at 108.

⁷⁹Hervey, "A Slavish Bowing Down", *supra*, at 108.

⁸⁰The Commission published a variety of special reports. The 1844 report was a somewhat special case, in that it was mandated by statute. The remainder were at the instigation of the commissioners themselves. Generally, these involved broad discussion of particular types of facility, such as their 1847 report, which focused on county asylums and private madhouses (but had an interesting appendix on workhouses): PP 1847 [858], *in octavo* 1847-8 xxxii 371. An 1855 report discussed charitable asylums, in an appendix to the ninth annual report: PP 1854-5 (240) xvii 533 at app. B. Other reports were prompted by particular events, such as an open letter issued in 1849 regarding the case of *Nottidge v. Ripley*, in which the jury had been instructed that dangerousness was the standard of committal to private madhouses: PP 1849 (620) xlvi 381. I shall argue below that this class includes the commissioners' 1857 report on workhouses: PP 1857, 2nd sess. (157) xvi 351. This report is sufficiently important to the present study that it is considered separately, below.

testimony before the 1859 Select Committee on Lunatics. The contradictions can be seen as flowing from the make-up of the commission itself, in its mixture of Benthamite, paternalist, evangelical, medical and legal ideologies. They can also be seen as in part imposed by the political position of the reports, justifying the position of the commission to both Westminster and the public, including the mad doctors.

At the heart of one contradiction in the Lunacy Commissioners' reports was the degree to which the asylum should be characterized as a medical institution. In this vision, the asylum was about cure, or at least professional medical care, as distinct for example from an institution to control the behaviour of the inmate. The basic dichotomy is identified by Peter McCandless:

The Victorians never clearly established what they meant by 'wrongful' confinement. At times they seemed to mean the confinement of the sane; at other times they seemed to include those who were insane but were not manifestly dangerous.⁸¹

In the county asylum system, the division was still more complicated. Even where the appropriate criterion for admission to the asylum was acknowledged to be other than dangerousness, there was no consensus as to whether the asylum was for all the insane, or for the curable only. Both these positions received support from a medical discourse. Thus the 1844 report had encouraged the removal of incurable insane people from asylums, to make way for the curable cases.⁸² This approach occurred sporadically throughout the period under study.⁸³ This focus on curability placed insanity squarely within the medical context, as is clear from the following quotation from the 1844 report:

⁸¹"Dangerous to Themselves and Others", 23 (1) Journal of British Studies (1983) 84 at 84.

⁸²Report of the Metropolitan Commissioners in Lunacy to the Lord Chancellor, (London: Bradbury and Evans, 1844), at chapter 2.

⁸³Twenty-Fourth Report of the Commissioners in Lunacy, PP 1870 (340) xxxiv 1 at 46 f.

The clause which is supposed to sanction the confinement in Workhouses of lunatics, without adverting to the probability of their being curable or not, provided they be not dangerous, is, in our opinion, impolitic, and open to serious objection. Although a patient may not be violent or raving, he may require medical treatment, and it is at the beginning of attacks of insanity, when the causes of the disease are in most powerful operation, and the symptoms are developing themselves, that the skill of a medical officer experienced in this disease is most required.⁸⁴

The criterion of cure fell at the intersection of a variety of themes. It was not merely humanitarian, although it certainly had that appeal, but was also appealing to the utilitarian and economic desires to reduce rates and eliminate pauperism, for an insane person who recovered might cease to be a burden on the rates.⁸⁵ The focus on medical concepts is also consistent with the commissioners' policy of alliance-building, and it reflected the medical component of their own membership. Hervey, who emphasises the importance of the asylum as a curative facility in his study of the Lunacy Commission, cites the paternalist element:

Shaftesbury knew Southey and Coleridge personally, as did Prichard and Procter, and all these men believed fervently in a Tory paternalism which carried with it social obligations to provide for the poor and disadvantaged. Shaftesbury and a number of other Commissioners saw the provision of a nationwide system of public asylums very much in this light, but also social reforms were perceived as a medium for diffusing or pre-empting civil unrest. In 1831 Southey wrote to Shaftesbury saying that whatever government was in office, it must endeavour to better the condition of the people: 'this must be amended or we perish'. ... He [Shaftesbury] sought to avoid the hard officialism

⁸⁴Report of the Metropolitan Commissioners in Lunacy to the Lord Chancellor, (London: Bradbury and Evans, 1844) at 99.

⁸⁵The Commissioners themselves made this argument, for example in Shaftesbury's 1859 testimony, PP 1859 1st sess. (204) iii 75 at question 672.

pursued by the Poor Law Commission, and eschewing a doctrinaire approach, preferred to see the county asylum system acting in loco parentis for poor defenceless creatures who needed protecting from themselves and others.⁸⁶

The focus on cure and care rather than confinement of dangerousness certainly reflected this paternalist element, while the comment regarding perishing is reminiscent of Benthamite concerns about security.

How convincing all this language of cure was is an open question. There was also the inescapable sense in the reports that people were not being cured. Notwithstanding the optimistic language which the Lunacy Commissioners would use, their reports were from the beginnings justifications for failure. Their 1844 report began the litany, emphasizing that the reason people were not being cured in the asylum was that the asylums were full of incurable cases, precluding curable cases from admission,⁸⁷ a complaint which would continue for decades. Recent scholarship has argued that this vision of the asylum as a therapeutic failure is inaccurate.⁸⁸ Even if true, it misses the point: contemporary observers, including the commissioners themselves, saw little cure happening.

At other points, the Lunacy Commission seems to imply that all insane were to be sent to the asylum, as in the following passage, from Lord Shaftesbury's testimony before the 1859 Select Committee:

[I]n every instance of a chronic patient going back to the workhouse, he has declined in health and appearance, for in fact they require to be placed in a totally different position, to undergo different kinds of

⁸⁶"The Lunacy Commission 1845-60", *supra*, at 94.

⁸⁷v. Report of the Metropolitan Commissioners in Lunacy, (London: Bradbury and Evans, 1844) at 6f, 79 ff.

⁸⁸Laurence Ray, "Models of Madness in Victorian Asylum Practice", 22 European Journal of Sociology (1981) 229.

treatment, and to be put upon different sorts of diet; in every instance of a chronic patient being sent back to the workhouse, he has declined.⁸⁹

Here, the emphasis is not on cure. As with the cure criterion, the focus is humanitarian, and although consistent with a medical context, it is less overtly dependent on the medical categorization.

At the same time, the Lunacy Commission was to be a guardian against wrongful committal, and of the civil rights of the inmates. Once again, this was one of the factors which distinguished workhouse from asylum accommodation, for in the former, the commissioners claimed that the inmate became "a prisoner for life, *incapable of asserting his rights, often of signifying his wants, yet amenable to as much punishment as if he were perfectly sane, and a willing offender against the laws and regulations of the place.*"⁹⁰ When portraying the asylum in a medical context, this role was downplayed: the asylum was about cure, not civil rights. The commissioners went so far as to publish an open letter objecting to the dangerousness standard of confinement, following the Nottidge case in 1849.⁹¹ There was nonetheless considerable concern regarding wrongful committal in Victorian times. The 1859 Select Committee heard four witnesses from the Alleged Lunatics' Friend Society, a society devoted to publicizing cases of wrongful confinement and amending the laws of lunacy.

The 1842 statute had, briefly, given them the power to release people held in county asylums.⁹² Their exercise of that authority did not at all resemble their broad

⁸⁹PP 1859 1st sess. (204) iii 75 at question 671.

⁹⁰Supplement to the Twelfth Annual Report of the Commissioners in Lunacy, PP 1859 1st sess. (228) ix 1 at 7.

⁹¹Copy of Letter to the Lord Chancellor from the Commissioners in Lunacy, with reference to their Duties and Practice, under the act 8 & 9 Vict., c. 100, PP 1849 (620) xlvi 381.

⁹²5 & 6 Vict., c. 87, s. 16.

comments noted above. Instead, they exercised this authority on the following terms:

Without laying down any precise rule on the subject, we have assumed, as a general principle for our guidance, that wherever a man of ordinary intellect is able so to conduct himself, that he is not likely to do injury in person or property, to himself or others, he is unfit to continue as the inmate of a Lunatic Asylum.⁹³

There is no obvious way to reconcile this comment with the statement emphasizing the medical nature of the asylum also drawn from the 1844 report, except for context: in the first statement, advocacy of asylum care was at issue; in this one, it was civil rights.⁹⁴

Occasionally the Lunacy Commission would cite the dangerousness criterion, but place it in a medical framework, thus combining the two approaches. The 1849 letter regarding Nottidge was itself not unambiguous, for while the Commissioners argued against the dangerousness standard, they also argued that should that standard

⁹³Report of the Metropolitan Commissioners in Lunacy, (London: Bradbury and Evans, 1844), at 170.

⁹⁴The two frameworks were actually placed in adjoining sentences in the discussion of the clause purporting to allow harmless lunatics to be kept in the workhouse, in the 1844 report:

Our objection to the clause of the Act to which we have referred is, that it has a tendency to impress upon those who have the care of the poor, the belief that there is no harm in keeping lunatics away from Asylums so long as they are not dangerous, and thus to combine with the other causes which we have pointed out in producing that incurable condition in which pauper lunatics are so often sent to Asylums. The clause seems, moreover open to this observation, -- if it really sanctions the detention of harmless lunatics, -- namely that the Parish Authorities may take advantage of it to deprive persons of their liberty, although they would do no harm if at large. [at 99]

There appears to be no acknowledgement that the objection made in the second sentence applies equally to those confined in asylums under the terms of the first sentence.

be adopted, "a fearful hazard [would] be incurred."⁹⁵ The image was of dangerousness lurking below the surface, to spew forth when delay in treatment had rendered it uncorrectable. The argument here was not that dangerousness ought not be the factor, but rather that the determination of dangerous was difficult, and a matter for the experts:

Moreover, the difficulty of ascertaining whether one who is insane be dangerous or not is exceedingly great, and, in some cases, can only be determined after minute observation for a considerable time. ...

In the cases of monomaniacs, and patients suffering under religious and other delusions (not apparently tending to any dangerous result), we have known repeated instances of their attempting and committing self-destruction, homicide, and acts of violence, owing to some imaginary sentence of condemnation, or under the influence of some imaginary voice or spirit.⁹⁶

This was a part of the developing medical ideology, where as Porter points out, insanity was no longer understood as obvious to the layman:

For one tenet of the professional psychiatry developing in the nineteenth century was the conviction that insanity could be fearsomely latent, biding its time, and visible only to the expert diagnostic gaze of the alienist. Eventually this view was to infiltrate the public mythology of madness, popularized, for example, in Robert Louis Stevenson's Dr. Jekyll and Mr. Hyde, through the notion of a double personality: one self seemingly normal and rational; the other subterranean, hideously perverted.⁹⁷

⁹⁵PP 1849 (620) xlvi 381, at 5.

⁹⁶PP 1849 (620) xlvi 381, at 6.

⁹⁷Mind-Forg'd Manacles, (London: Athlone, 1987; rpt. Harmondsworth: Penguin, 1990) at 35. This theme was also noted obiter in R. v. Inhabitants of Barnsey (1849), 18 L.J. (N.C.) M.C. 170 (Q.B.) by Patteson J, at 172: "The medical certificate seems to be required with a view of ascertaining whether the lunatic is dangerous."

This conjunction appears to be the exception in the commissioners' reports, however. Medical categorization is generally related to the issue of determination of lunacy, or curability.

As noted, the Lunacy Commission had jurisdiction over both pauper and non-pauper insane. The discourses surrounding class in their reports are not consistent. On one hand, the Lunacy Commission was keen to expand the application of the asylums act to include a class who were not strictly paupers, suggesting a relatively egalitarian framework; on the other, they favoured the construction of simple buildings because it was paupers who would live in them, and they favoured the segregation of private from pauper patients.

At times, consistent with humanitarian paternalist influences, the Lunacy Commissioners appear to have portrayed the asylum as a place of gentility, removed from the hard strictures of the poor law. They did not approve of a restrictive interpretation being placed on the definition of 'pauper' under the County Asylum Acts. In their ninth annual report, they comment on the practice of admitting to the asylum persons not previously in receipt of parish relief, who were "not infrequently tradesmen, or thriving artisans", upon their families reimbursing the parish. They spoke favourably of the practice, and argued for its legality, so long as the entire cost of maintenance was not reimbursed:

It should, however, be borne in mind, that the language of the statute, the interpretation clause of which defines the term 'pauper' to mean 'every person maintained wholly or in part by, or chargeable to any parish, union, or county,' seems to countenance, if it does not actually justify the practice; and that to insist upon a rigid observance of a different rule would, in most cases, either compel the party interposing, if legally liable for the maintenance of the lunatic, to throw himself as well as the patient on the parish for support, or where he was not so liable, would induce him to decline undertaking any portion of the burden.⁹⁸

⁹⁸PP 1854-5 (240) xvii 533, at 34 f.

They also spoke of the middle classes reduced to poverty by the lunacy of the family breadwinner. In these situations, the family was seen to pay for care until their assets were depleted, at which point the insane person would be transferred to the county asylum: "This is the main reason why, in our Pauper Lunatic Asylums, many inmates are to be met with who have formerly held a respectable station in society, and who, in point of education and manners, are greatly superior to the inmates of a workhouse."⁹⁹ This class in turn was used to justify a higher standard of accommodation in the asylum than for ordinary paupers in the workhouse.¹⁰⁰

At the same time, an institution was not to include both private and pauper patients. The Metropolitan Commissioners had been sceptical of this system as practised in some county asylums in their 1844 report, on the basis that such mixed asylums compromised care of paupers by restricting access to much of the buildings and airing grounds.¹⁰¹ By the late 1850s, the rationale had changed: paupers were to be housed separately from private patients for reasons of order, the paupers posing a threat to the good behaviour of the private patient.

The commissioners also favoured the removal of pauper patients from private madhouses.¹⁰² This movement did occur; smaller proportions of pauper insane were sent to private facilities as the century progressed, although it is difficult to tell how much of this was the result of the commissioners' involvement, since if Leicester provides a typical example, the private madhouse became more expensive than county

⁹⁹PP 1854-5 (240) xvii 533, at 35.

¹⁰⁰v., e.g., Supplement to the Twelfth Annual Report of the Commissioners in Lunacy, PP 1859, 1st sess. (228) ix 1 at 6.

¹⁰¹Report of Metropolitan Commissioners in Lunacy, (London: Bradbury and Evans, 1844), at 30 f.

¹⁰²v., for example, Fourteenth Annual Report of the Lunacy Commissioners, PP 1860 (338) xxxiv 231 at 19.

asylum care in the period under study.¹⁰³

The class issues also appeared in the commissioners' description of the causes of insanity.

Amongst the most frequent causes of Insanity in Paupers, are habitual intemperance, poverty and destitution, grief, disappointment; and, we fear, in some instances want of sufficient sustenance. These causes act with different degrees of influence on different individuals, according to the various states of their constitution, but they have all a tendency to bring the body into a state of weakness and exhaustion. This is greatly aggravated by the insane poor being very generally sent in the first place to workhouses and other improper receptacles, instead of to Asylums, where they might be immediately subjected to medical treatment, at a time when the disease is known to be curable in a large proportion of cases.¹⁰⁴

This reflects the views of the asylum superintendent in the case book noted in the last chapter. Also reflecting those views, the workhouse was sometimes perceived as itself a cause of madness in the poor:

The result is, that detention in Workhouses not only deteriorates the more harmless and imbecile cases to which they are not unsuited, but has the tendency to render chronic and permanent such as might have yielded to early care. The one class, no longer associating with the other inmates but congregated in separate wards, rapidly degenerate into a condition requiring all the attendance and treatment to be obtained only in a well-regulated Asylum; and the others, presenting originally every chance of recovery, but

¹⁰³Charges rose from seven to nine shillings per week at the county asylum in Leicester in the period under study. In 1868, Fisherton House and Peckham House, private madhouses containing some insane paupers from Leicester Union, charged fifteen shillings and sixteen shillings and four pence per week respectively.

¹⁰⁴Report of the Metropolitan Commissioners in Lunacy to the Lord Chancellor, (London: Bradbury and Evans, 1844), at 115 f.

finding none of its appliances or means, rapidly sink into that almost hopeless state which leaves them generally for life a burden on their parishes. Nor can a remedy be suggested so long as this Workhouse system continues.¹⁰⁵

This line was consistent with the Lunacy Commission's challenge to the new poor law, and its humanitarian paternalism. It mitigated against the moralization of the insane pauper, essentially by portraying the insane pauper as the victim of the institution; but it did posit insanity in an explicitly class-based formulation.

Even the 1849 letter, with its emphasis on broad confinement on medical models, understood the consequences of inadequate asylum provision differently as between paupers and private patients. For private patients, the issues were not merely annoyance to the families, and the lack of cure, but also the exposure of the family of the insane person to violent conduct. This was particularly lamentable "where there are children, whose minds might receive a shock, and perhaps be incurably injured, by continually witnessing the paroxysms or maniacal extravagances of a lunatic."¹⁰⁶ The patient, also, deserved protection from the prying eyes of the household and the neighbourhood, and for all concerned, the immoral habits of the women patients and the filthy habits of all these insane people ought to be shielded from general observation. The concerns regarding pauper patients are quite different:

In respect to pauper lunatics, it has already been the subject of almost universal complaint, that the number of such lunatics has been multiplied, and the country burthened to a prodigious amount, because the poorer class of lunatics have been allowed to remain at large, or kept in workhouses, deprived of that medical treatment which a lunatic establishment properly managed is best calculated to afford, until their malady has become incurable.

¹⁰⁵Eleventh Annual Report of the Lunacy Commissioners, PP 1857 2nd sess. (157) xvi 351 at 16.

¹⁰⁶PP 1849 (620) xlvii 381 at 11.

The misery to the lunatics' families, and the great cost to the various parishes and counties consequent on this course, it would be difficult to exaggerate.¹⁰⁷

For the private patients, the concern was the emotional burden on the family, and the protection of private morality; for the pauper patients, the concern was the public threat of increasing numbers and expense.

The Lunacy Commissioners were perceived as a check on extravagant construction, and to that end they emphasized the pauper clientele of the asylum. In their 1844 report, for example, they argue that no unnecessary cost ought to be spent on decoration, "especially as these Asylums are erected for persons who, when in health, are accustomed to dwell in cottages."¹⁰⁸ Dormitories were to be substituted for single sleeping rooms in part because they "better accord with the pauper's previous habits" than sleeping alone. Single rooms were to be used only for the violent, noisy, and mischievous, and for those in the throes of paroxysm.¹⁰⁹ The construction of buildings considered lavish might result in criticism for extravagance, as did the Leicester Borough Asylum in 1870.¹¹⁰

The commissioners were thus faced with the joint problems of defending asylum care and asylum economy. On the one hand, believing that curable cases were being detained in workhouses for financial reasons, they advocated the maintenance costs of paupers in asylums to be borne by the common fund of the union, not by the individual parish, an amendment which was achieved in 1861.¹¹¹ At the same time,

¹⁰⁷PP 1849 (620) xlvii 381 at 10.

¹⁰⁸Report of Metropolitan Commissioners in Lunacy, (London: Bradbury and Evans, 1844), at 12.

¹⁰⁹Report of Metropolitan Commissioners in Lunacy, (London: Bradbury and Evans, 1844), at 13.

¹¹⁰Twenty-fifth Annual Report of the Lunacy Commission7, PP 1871 (351) xxvi 1 at 339.

¹¹¹24 & 25 Vict. c. 55.

they complained of paupers being sent from workhouses to the asylums, as in the following extract from their eleventh annual report regarding Hanwell and Colney Hatch, the two Middlesex county asylums:

Making allowance for the actual spread of the disorder, and also for the advantage not unlikely to have been taken of such Asylums to find room therein for Patients not absolutely Paupers, it does not admit of any reasonable doubt that both buildings have been too much crowded with inmates who ought not to have been sent to either; and that, instead of continuing to be used as hospitals for the treatment, these expensive structures are in danger of being turned into mere houses for the safe custody, of the Insane. Hardly had they been built, when into each the Workhouses sent such large numbers of chronic cases, as at once necessarily excluded the more immediately curable until the stage of cure was almost passed; and the doors of both these Establishments became virtually closed, not long after they were opened, to the very inmates for whom only it was needful to have made such costly provision.¹¹²

For the distinctiveness of the asylum, they relied on moral treatment: the asylum as a place of cure and specialized care. For motives of economy, they advocated a third stream of facilities. Such institutions had been envisaged as early as the mid-1840s. The 1844 report of the Lunacy Commissioners had complained that county asylums were already full of incurable cases, and argued that these ought to be removed and curable cases introduced. The creation of a certain number of incurable cases was, in their view, inevitable:

In a certain proportion of cases, the Patient neither recovers nor dies, but remains an incurable lunatic, requiring little medical skill in respect to his mental disease, and frequently living many years. A Patient in this state requires a place of refuge; but his disease

¹¹²PP 1857 2nd sess. (157) xvi 351 at 13. The Leicestershire and Rutland Asylum complained of the alteration in the funding mechanism in its annual reports for the years following 1861 on the basis that it would undercut the asylum's role as a curative facility.

being beyond the reach of medical skill, it is quite evident that he should be removed from Asylums instituted for the cure of insanity, in order to make room for others whose cases have not yet become hopeless.¹¹³

As a result, the 1845 act included a duty to provide additional buildings as required for chronic cases, to ensure adequate space for the prompt admission to asylums of the curable.¹¹⁴ This duty seems to have been entirely ignored, except insofar as section eight of the act allowed it to be met by the co-option of workhouses for the purpose.

The commissioners' essential power was in persuasion, and the variety of attitudes of those to be persuaded had to be considered. Perhaps as a result, and unlike the Poor Law Commissioners in the period after 1834, the Lunacy Commission was never able to establish a consistent orthodoxy to serve as the basis of debate: there was nothing corresponding to the principle of less eligibility and the Malthusian moral economy to serve as the basis of policy debates surrounding pauper lunacy. Instead, various themes relating to both old and new poor law, medicine, evangelical Christianity, paternalism, humanitarianism, Benthamite utilitarianism, centralization and administration made strange and inconsistent bedfellows. Hervey argues that their general avoidance of confrontation in favour of a more conciliatory administrative style ensured their survival and increased their persuasiveness with local administrators.¹¹⁵ This may be true. In general, these inconsistencies did not provoke confrontation. The commission made few enemies at the local level, and established working relations with the poor law central authorities. The focus of the annual reports and much of the special reports as well on issues of the improvement of asylum buildings and general standards of care, along with statistical tables, left the

¹¹³Report of the Metropolitan Commissioners in Lunacy to the Lord Chancellor, (London: Bradbury and Evans, 1844), at 92.

¹¹⁴8 & 9 Vict. c. 126, s. 27.

¹¹⁵"The Lunacy Commission, 1845-60", *supra*, at 94 f., and chapters 4 and 5.

divisive issues largely on the sidelines. Nonetheless, the inability to articulate a strong and consistent policy may well have had an effect on the persuasiveness of the commissioners' reports, in turn raising the issue of how significant the commissioners were in the reforms of the nineteenth century.

The differing discourses of local reports of county asylums and the centralized annual and special reports of the Lunacy Commission could generally co-exist in the network of practical administrative relations established by the Lunacy Commission. As discussed above, the Lunacy Commission operated through the poor law central authority when the asylum admission system was perceived to break down: the Justices of the Peace were not confronted directly by the Lunacy Commission regarding admissions. Similarly, while the Lunacy Commission could be critical of the high capital costs expended by the Justices on asylums, both the commission and at least most of the Justices were partisans of the asylum system. The exception to this vision of peace was their critical report on workhouses in 1859, where departure from the local reports upon which it was ostensibly based occasioned relatively direct argument before the subsequent Select Committee of the House of Commons. That issue of the Commissioners attitudes to the workhouse care of the insane is addressed in appendix 5.

Where, in all this, is reform? The Lunacy Commission in some sense was at the centre of the care of the insane, in that they saw all the institutionalized, and were able, albeit usually indirectly, to effect incremental change. Their focus on the physical standard of institutions did not imply a radical theoretical agenda. Instead, as discussed, it lay at the intersection of themes regarding humanitarianism, control of the dangerous, medical interests, and cure. The technique of persuasion implied in their local reports did nothing to challenge the authority of local officials. The existence of the Lunacy Commission no doubt furthered the change in perception of the asylums as individual and local institutions, to asylums as forming a national system, but this involved no obvious change in the perception of the social role of the asylum. Insofar as it makes sense beyond this to see the role of the commissioners in terms of 'reform', the reform should be considered in terms of increased physical

standards and more pervasive regimen, not in terms of theoretical changes.

Conclusion

This thesis began with a challenge to previous historical accounts of nineteenth century lunacy: rather than placing the subject in the field of medical history, it was placed in the context of the poor law. This thesis has instead argued that the poor law administration was central to the development and functioning of the nineteenth century asylum. The county asylum was, in essence, a poor law institution.

In that context, it is to be considered alongside the workhouse and outdoor relief in the care of the insane poor. Throughout the nineteenth century, these other forms of relief never cared for less than one third of the insane poor. Far from the workhouse shrinking in importance, from the beginning of systematic statistics in mid-century to at least 1890, the workhouse cared for a steady quarter of the insane poor. Surviving documentation has limited what could be said about these fora, but I hope it has been at least demonstrated that they were central parts of the care of the insane poor, and not to be dismissed as an administrative side-show, or short-term expedient.

It has been argued that far from being the central actors in the county asylum movement, alienist superintendents had little control over the central decisions related to the administration of the lunacy system. Instead, it was the county magistrates and the poor law officials who made the day-to-day decisions about admissions, and the magistrates on the asylum visiting committees who made the decisions regarding patient discharge, and who oversaw the running of the asylum. Scull is right to claim that the medical superintendents were not perceived to produce the level of cures their reform vision had promised, but it is less obvious that this constituted a "failure of reform", since a medical vision was not central to the asylum. It was not even securely held by the Lunacy Commissioners.

The development of the care of the insane poor is to be understood instead in the context of the development of the new poor law. The focus of the 1834 act on the principle of less eligibility for the able-bodied poor reflected the intersection of Malthusian evangelical and utilitarian thought, but its implementation pointed up divergent approaches to poor relief. While the 1834 Royal Commission perceived poor law in terms of a uniform national system overseen by a central authority, local authorities were not prepared to give up their discretionary powers over their paupers. Equally important, outside the issue of able-bodied adult pauperism, there was no consensus as to how poor relief was to be approached.

The development of the poor law of lunacy is to be understood as a part of this disputed theoretical territory. As such, it lay at the crossroads of a variety of inconsistent discourses. On the one hand, it was perceived as a humanitarian institution, a place of good food, exercise, brass bands and weekly dances, a place where the exercise of paternalist benevolence protected the most pitiable of society. At the same time, it was a place where the dangerous were rendered docile and the suicidal secure, a place where a strict system of discipline ensured peace and order. Consistent with the moralizing trends of the new poor law, the inmates of the asylum were often portrayed as the authors of their own misfortunes, through drink or intemperate living.

In its administration, the poor law of lunacy was a peculiar hybrid of old and new poor law. Its administrative structures were inherited from the old, but its growth occurred under the new. Indeed, it is possible to see the implementation of the 1845 county asylum statute in part as a reaction to the new poor law. Its retention of magisterial jurisdiction, and the humanitarian and old paternalist ideologies which formed one strand of the discourse of the county asylum is in direct contradiction with the rigours of the new poor law. At the same time, the bureaucratic staff of the new poor law, the medical officers and relieving officers, were central to the functioning of the system, and the introduction of the central inspectorate in 1845 reflected a Benthamite influence at least consistent with the new poor law.

The insane had been cared for under the poor law well before the introduction and growth of county asylums in the nineteenth century. That was not the change which occurred. The criteria for asylum admission, focused on threatening or suicidal behaviour of the insane individual, reflected this earlier tradition. It was instead an administrative revolution which occurred in the nineteenth century. The intersection of the pressures identified above, perhaps fed by economic pressures on the poor which made the poor law care of the insane their only practical option, led to the identification and institutionalization of the pauper insane on a large scale. The structure of the care of the insane poor in the nineteenth century was the result of the tension between these interests.

Appendix 1: Quantitative Indicators

This appendix presents an overview of relevant statistical information drawn from the annual reports of the Lunacy Commission, the Poor Law Board and the Local Government Board. The use of this material poses both practical and theoretical difficulties.

There are to begin with the usual anomalies of data, where categorical structures were changed over time. This is particularly problematic with the poor law statistics. Up to 1848, the statistics listed the number of people relieved in the quarter ending on Lady Day (25 March); after that time, they showed the number of persons actually on relief on 1 January and 1 July of the given year. That transition is of assistance, in that it brought the poor law statistics into closer conformity with those of the Lunacy Commission, which from 1849 published an annual table as to where pauper lunatics were relieved on 1 January. It also means that the information contained in earlier reports from the Poor Law Commissioners is virtually useless for comparison purposes, and it has been ignored in this appendix.

Returns of apparently the same information completed by the same people for the same days routinely did not match. The thirty-sixth and forty-fifth annual reports of the Commissioners in Lunacy listed the number of insane persons contained in workhouses on 1 January from 1859 to 1891. The ninth and twentieth annual reports of the Local Government Board listed what appears to be the same information. The numbers do not agree. By the end of the period, the differences were statistically minimal, about half a percent. In the 1860s the difference was generally less than two and one half per cent, but in 1859, it was six per cent. The reports themselves do not account for this differential, although part may be due to the inclusion of Gilbert Unions and parishes under local poor law acts within the statistics of the Lunacy

Commission.

The central authorities were not even necessarily consistent within their own series of reports. Thus appendix D (71) to the Ninth Annual Report of the Local Government Board purported to be a continuation of appendix thirty-three to the Eleventh Annual Report of the Poor Law Board. The tables overlapped, each providing data for 1 January 1858, 1 July 1858, and 1 January 1859. For each of these dates, the later report showed seven per cent more individuals in workhouses, and three per cent more on outdoor relief, than the earlier table. No explanation was provided for the differential.

There were also anomalies in the collection of the information, particularly in the early years, which do not inspire confidence in the quality of the statistics. For both the able-bodied and non-able-bodied categories, appendix 33 of the Eleventh Annual Report of the Poor Law Board distinguished married couples receiving indoor relief from other adults receiving similar relief. The married couples are divided by sex. Obviously, one would expect the number of married men to equal the number of married women, and commencing with the figures for 1 January 1858, they do so.¹ For the period from 1849 to July 1857, the figures are not the same, and are occasionally radically different. In the extreme, in their able-bodied married category for 1 July 1857, Cumberland Union listed twenty-six women and one man. The total able-bodied married class routinely seems to number one and one half times the number of married women to married men in July returns. The consistency is interesting, suggesting that carelessness may not have been the only issue, although the equalization of the numbers starting in 1858 would suggest that, at least in the view of the Poor Law Board, the expectation was that husbands would equal wives. At issue here is not the reason for the differential, but rather that the statistics cannot

¹For example, the number of men in the male, married, able-bodied, indoor relief class matches the number of women in the corresponding female class.

necessarily be taken simply at their face.²

The poor law statistics regarding lunacy are particularly problematic. An increase of the insane on outdoor relief by sixty per cent in 1859, from 13,420 to 21,501, was explained by the following note:

The increase in the number of Insane Paupers, recorded in the Out-door portion of this Summary on the 1st January 1859, arises from the circumstance of those persons chargeable to the Poor Rates and maintained in Lunatic Asylums being then fully returned for the first time.³

It would thus appear that prior to 1859, there was no consistent practice for the recording of lunatics on the general return of pauperism. The 1859 increase of 8,081 was close to half the number of paupers in asylums, registered hospitals, and private madhouses at that time, suggesting that the bulk of the returns before 1858 were also insane paupers kept in these institutions. There is no way of assessing that with any accuracy, however, making this column essentially useless to determine the number of people on outdoor relief and not contained in an institution, a figure not readily available elsewhere.⁴

²The difference prior to 1858 cannot be explained by categorizing the wife as able-bodied or non-able-bodied according to her own physical health. If this were the case, the sums of able-bodied and non-able-bodied men would equal the sum of able-bodied and non-able-bodied women, and they do not.

³Ninth Annual Report of Local Government Board, app. (D) no. 71.

⁴The Poor Law Board did publish occasional tables relating to lunacy which included information as to where the insane were kept, distinguishing those in county asylums, private madhouses, workhouses and on outdoor relief: v. Seventh Annual Report of the Poor Law Board, PP 1854-5 [1921] xxiv 1 at appendix 40 for 1 January 1854; Fifth Annual Report of the Poor Law Board, PP. 1852-3 [1625] 1 1 at app. 33 for 1 January 1852; and a separate return not contained in an annual report, at PP 1847-8 xxxii 371, for 1 January 1847. A similar table was included in the Eleventh Annual Report of the Lunacy Commissioners, PP 1857, 2nd sess, (157) xvi 351 at appendix E for 1 January 1857. This gives a more specific division of out-door relief, and have been relied upon when a figure is required. They are problematic, however, in that they do not distinguish lunatics contained in registered hospitals, leaving it a matter of speculation where, if anywhere, these paupers were included in the table.

Some unions were said prior to 1859 to have returned paupers in asylums as on indoor relief.⁵ The degree to which this was the case cannot be assessed with any accuracy, but it cannot account for a large proportion of those not accounted for in the outdoor category. The total insane on indoor relief was listed as 7555 for 1 January 1858 and 8451 for 1 January 1859.⁶ The Fifteenth Annual Report of the Lunacy Commission showed 6,800 insane paupers actually in workhouses for 1857, suggesting that the reporting of those in asylums in this category may have been minimal.

Even after 1859, the figure for outdoor relief of the insane remains questionable. If the practice outlined above were routinely followed, the return ought to equal the sum of those paupers in asylums, registered hospitals, private madhouses and on outdoor relief. In comparison with Lunacy Commission statistics for these categories, it still under-reports. Once again, the degree of this under reporting decreases over the period, from about eight per cent in 1859 to about four per cent in 1890. Once again, this may in part be accounted for by the inclusion of Gilbert Unions and parishes under local acts in the Lunacy Commission statistic, the differential is considerably greater here than in the workhouse case noted above, suggesting the presence of other factors.

The statistics were also affected by quirks in the legal structure of the poor law. This is particularly significant for married couples on indoor relief, where the expectation seems to have been that both members of the couple receiving indoor

The number of paupers in these charitable facilities appears to have been small, however. The figures contained in the reports of the Lunacy Commission starting in 1859 show only 354 paupers in these facilities.

⁵Twelfth Annual Report of Poor Law Board, PP 1860 [2675] xxxvii 1 at app. 22, table II, note.

⁶Ninth Annual Report of the Local Government Board, PP 1880 [2681] xxvi 1 at app. (D) no. 71. Cf. Eleventh Annual Report of the Poor Law Board, PP 1859 1st sess. [2500] ix 741 at app. 33, where the increase was from 6947 to 7672.

relief would be categorized in the same way for statistical purposes.⁷ The question arises as to how a couple composed for example of an able-bodied man and a non-able-bodied woman would be categorized. The returns for outdoor relief contained in the Eleventh Annual Report of the Poor Law Board were explicit that able-bodied status was determined in these circumstances with reference to the male.⁸ This is consistent with the patriarchal structure of the poor law, discussed in the body of this dissertation. The reasonable assumption is that the same policy was used to determine the wife's status on indoor relief. As such, the statistics bear no relationship to the actual physical condition of the wife, and are of limited application in this regard. There was no indication that this reporting policy changed in the period in question.⁹ The importance of this for the overall understanding of the statistics is important, but should not be over-estimated. The percentage of women married to men in the

⁷This point is clearest after 1858, when the figures for men and women in married couples started to agree within able-bodied and non-able-bodied categories. As noted above, problems of the returns themselves make it difficult to assess recording practices prior to that time regarding these numbers, but there is no indication of a change in attitude to statistical practices relating to women at this time.

⁸These returns were contained on the same table as the problematic indoor returns, viz. appendix 33.

⁹Appendix (D) no. 71 to the Ninth Annual Report of the Local Government Board, PP 1880 [2681] xxvi 1 regarding 1858 to 1879, states:

The corresponding table to this, but with a more detailed classification, will be found at page 196 of the Eleventh Annual Report of the Poor Law Board, where the particulars are given in reference to twenty-one periods commencing with January 1849.

This later report does not include the separate classification of married paupers, but this note would suggest that the classification structure did not change between these reports.

Different practices regarding married paupers cannot account solely for the inconsistencies between the Lunacy Commission and poor law statistics, although it does appear that those statistics categorized married women without reference to their husbands. In fact, the poor law and Lunacy Commission outdoor relief statistics after 1859 were marginally more different for men than for women. As noted above, the overall difference was about eight per cent in 1860, reducing to about four per cent by 1890; for men, the corresponding figures are ten and five per cent.

workhouse, according to the Eleventh Annual Report where this is calculable, is generally between roughly five and ten per cent of the adult women in the relevant class.

The second place where poor law policy renders the recording of the statistics ambiguous concerns those people transferred to workhouses pursuant to section 8 of the 1862 act, discussed above. Under a legal opinion of the Law Officers of the Crown, persons transferred under these provisions remained legally in the asylum, notwithstanding that they were physically in the workhouse.¹⁰ The statistics do not indicate how these people were categorized in the tables, but given the explicit direction in the legal opinion that they be retained on the books of the asylum, it seems likely that they were categorized as asylum inmates, not workhouse inmates.

In the result, the statistics which follow must be approached with considerable apprehension. They may indicate broad trends, but should not in any way be taken as reflecting twentieth century statistical standards.

The theoretical difficulties regarding the statistics concern what they are and how they are to be understood. On the one hand, they were a part of the discourse constructed by the central authorities about the insane in the nineteenth century. Just as the content of local and central reports of the Lunacy Commission regarding workhouses and asylums were shown to be at least in part determined by bureaucratic factors, the content of the statistics must presumably be viewed with the same reservations: just how much can they be taken to say about "situated reality", and just what do they measure?

At the very least, they may be understood as part of the material available to policy-makers in the nineteenth century. The apparently increasing incidence of lunacy, particularly in the pauper class was the topic of debate and concern, and it was in through these statistics that the arguments were made. They are relevant in that

¹⁰PRO MH 51/760.

context, if none other. The question is whether they may be used for any assessment of what was "really" happening.

It is clear that the compilation of the statistics did occur in an administrative context. The focus of that context has already been misrepresented here, in that no reference has been made to the considerable interest of financial issues in the statistical material compiled by the central authorities. Concerning the enumeration of individuals, the policies regarding married women and paupers removed under section 8 of the 1862 act provide examples of situations where administrative factors place a specific structure and interpretation onto the statistics.

At a more basic level, the individual only became a statistic when it was necessary to approach the poor law authorities for relief, either by way of the usual poor relief or for admission to the asylum. If, following Scull, it is allowed that this was in part a function of economic forces which increasingly left the poor little option but to resort to relief rather than supporting their incapacitated family members out of their own income, occasions for categorization may in fact be related to market forces.¹¹

It is also the case that what are counted are acts of categorization, and the relationship between these categorizations and situated reality can be problematic. Thus of the rise in persons kept in the workhouse, there is no reliable indication as to how much this was the result of a change in classificatory procedures within the workhouse, and how much it represented the introduction into the workhouse of people who otherwise would have been left outside it. This means that it is highly

¹¹Interestingly, there does not appear to be any correlation between the grant of relief generally and the relief accorded to the pauper insane. On Scull's hypothesis, one might expect such a correlation, given that the same forces which would force individuals onto relief might reasonably be expected to force them to give up their insane relatives to the care of the poor law. Positing such a correlation implies a variety of assumptions, the most notable being the increase in poor relief being an indicator of diminishing flexible income on the part of the remainder of the poor, but the case nonetheless appears strong enough to warrant further consideration.

dubious to use the statistics even as a measure of how many of the people cared for by the poor law were "insane", in any objective sense (if, indeed, an objective meaning of insanity is itself a coherent concept).

What the statistics measure is the growth of insanity as an administrative category within the poor law. With that caveat (and the practical ones noted above) it does seem reasonable to accept them as "true" within their administrative context. It seems merely stubborn, for example, on the basis of there being "nothing outside the text" to suggest that the recording of the returns of the numbers contained in county asylums have nothing to say about asylum growth.

The statistics are presented in the following pages in the form of graphs. This perhaps presents a theoretical issue of its own. The originals are in long and sometimes complicated tables, rendering interpretation difficult. The organization in graphic format can be seen as a re-structuring away from the original text: it was, after all, the impenetrable tables which confronted the nineteenth century policy-maker. The graphic interpretation loses the precision of the individual numbers of the tables, but given the practical difficulties of those numbers noted above, the concession to easier interpretation seemed a justifiable compromise.

List of Figures, Sources and Annotations

1. Institutionalization, Private versus Pauper, 1 January 1849-90

This graph shows the number of paupers and private patients in institutions. Both children and adults are included. Figures for 1859 through 1882 are drawn from table I in the Thirty-Sixth Annual Report of the Commissioners in Lunacy, PP 1882 (357) xxxii 1 at 6 ff. The figures for 1883 to 1890 are drawn from table I of the Forty-Fifth Annual Report of the Commissioners in Lunacy, PP 1890-91 (286) xxxvi 1 at 6 ff. The figures on the graph do not include neither paupers on outdoor relief nor private patients living "with friends or elsewhere". The figures for private patients for 1849 to 1858 are drawn from the annual reports of the Commissioners in Lunacy. The figures for paupers in this period are the sum of the returns of pauper lunatics in asylums, charitable hospitals, and private madhouses contained in the annual reports of the Commissioners in Lunacy for the respective years, plus the return of the number contained in workhouses, as reported in the Eleventh Annual Report of the Poor Law Board, PP 1858 1st sess. [2500] ix 741 at 196 ff., being appendix 33. This mixture of reports of Lunacy Commission and Poor Law Board is regrettable for the reasons indicated above, but it is unavoidable since the reports of the Lunacy Commission do not provide statistics for workhouses for this period.

2. Institutionalization, Private versus Pauper, 1 January 1849-90, by Percentage

This graph shows the percentage of insane persons in institutions that were respectively pauper and private patients. Sources are as in figure 1.

3. Inmates of County Asylums, Private versus Pauper, 1 January 1849-90

This graph shows the number of people in county lunatic asylums, distinguishing between private and pauper patients. The source of the figures from 1859 through 1882 are drawn from table I in the Thirty-Sixth Annual Report of the Commissioners in Lunacy, PP 1882 (357) xxxii 1 at 6 ff. The figures for 1883 to 1890 are drawn from table I of the Forty-Fifth Annual Report of the Commissioners in Lunacy, PP 1890-91 (286) xxxvi 1 at 6 ff. Figures for 1849 through 1858 are drawn from the annual reports of the Commissioners in Lunacy for the year in question.

4. Inmates of County Asylums, Private versus Pauper, 1 January 1849-90, by Percentage

This graph shows the percentage of those in county asylums that were respectively paupers and private patients. Sources as in figure 3.

5. Relief of Pauper Insane, 1 January 1849-90

This graph shows the number of paupers relieved on 1 January 1849 to 1890 in county asylums, registered hospitals, licensed madhouses, and workhouses. The sources of these statistics are as in figure 1. Outdoor relief statistics are also shown commencing in 1859. These figures are also drawn from the thirty-sixth and forty-fifth annual reports of the Commissioners in Lunacy. Regarding the inadequacy of statistics relating to outdoor relief, see introduction to this appendix, above. Figures for outdoor relief prior to 1858 have been drawn from the Eleventh Annual Report of the Lunacy Commissioners, PP 1857, 2nd sess, (157) xvi 351 at appendix E for 1 January 1857, the Seventh Annual Report of the Poor Law Board, PP 1854-5 [1921] xxiv 1 at appendix 40 for 1 January 1854; the Fifth Annual Report of the Poor Law Board, PP. 1852-3 [1625] 1 1 at app. 33 for 1 January 1852; and a separate return not contained in an

annual report, at PP 1847-8 xxxii 371, for 1 January 1847. The assumption has been made that trends were steady between these points.

6. Relief of Pauper Insane, 1 January 1849-90, by Per Cent

This graph shows the percentage of insane paupers relieved in on 1 January 1849 in workhouses, licensed madhouses, registered hospitals, county asylums and on outdoor relief. The sources of statistics is the same as those for figure 5, and are subject to the same limitations on reliability regarding outdoor relief prior to 1859.

7. Adult Paupers in Workhouses, 1 January 1849-90

This graph shows the number of paupers contained in workhouses from 1 January 1849 to 1890, distinguishing those categorized as insane, able-bodied, non-able-bodied, and vagrant. The statistics from 1849 to 1857 are drawn from the Eleventh Annual Report of the Poor Law Board, PP 1858 1st sess. [2500] ix 741 at 196 ff., being appendix 33. Those for 1858 through 1874 are drawn from the Ninth Annual Report of the Local Government Board, PP 1879-80 [2681] xxvi 1 at appendix (D) 71. Those for 1875 through 1890 are drawn from the Twentieth Annual Report of the Local Government Board, PP 1890-91 [6460] xxxiii 1, at 480, app. (E).

8. Adult Paupers in Workhouses, 1 January 1849-90, by Per Cent

This graph shows the percentage of paupers in workhouses from 1 January 1849 to 1890 who were respectively insane, able-bodied, non-able-bodied, and vagrants. Sources are as for figure 7.

9. Outdoor Relief of Adults, 1 January 1859-90

This graph shows the number of persons on outdoor relief on 1 January from 1859 to 1890, distinguishing the able-bodied, the non-able-bodied, and the insane. The sources for able-bodied and non-able bodied are those indicated in figure 7. The source for outdoor relief of the insane for 1859 through 1882 are drawn from table I in the Thirty-Sixth Annual Report of the Commissioners in Lunacy, PP 1882 (357) xxxii 1 at 6 ff. The figures for 1883 to 1890 are drawn from table I of the Forty-Fifth Annual Report of the Commissioners in Lunacy, PP 1890-91 (286) xxxvi 1 at 6 ff. These figures regarding the insane are not strictly comparable, as the Lunacy Commission figures include children, who are excluded from the poor law statistics used here. The number of children appears to have been minimal, however.

10. Outdoor Relief of Adults, 1 January 1859-90, by Per Cent

Percentage of those receiving outdoor relief on 1 January 1859 through 1890 who were able-bodied, non-able-bodied, or insane. Sources as in figure 9.

11. Pauper Adults in Workhouses, 1 July 1849-90

This graph shows the number of paupers contained in workhouses from 1 July 1849 to 1890, distinguishing those categorized as insane, able-bodied, non-able-bodied, and vagrant. The statistics from 1849 to 1857 are drawn from the Eleventh Annual Report of the Poor Law Board, PP 1858 1st sess. [2500] ix 741 at 196 ff., being appendix 33. Those for 1858 through 1874 are drawn from the Ninth Annual Report of the Local Government Board, PP 1879-80, [2681] xxvi 1 at appendix (D) 71. Those for 1875 through 1890 are drawn from the Twentieth Annual Report of the Local Government Board, PP 1890-91 [6460] xxxiii 1, at 480, app. (E).

12. Pauper Adults in Workhouses, 1 July 1849-90, by Per Cent

This graph shows the percentage of paupers in workhouses from 1 July 1849 to 1890 who were respectively insane, able-bodied, non-able-bodied, and vagrants. Sources are as for figure 11.

13. Indoor Relief, Able-Bodied Adults, 1849-90, 1 January vs. 1 July

This graph compares the number of able-bodied relieved in workhouses on 1 January and 1 July of the given year. Sources as for figure 11.

14. Total Relief, Able-Bodied Adults, 1849-90, 1 January vs. 1 July

This graph compares the total relief afforded to the able-bodied on 1 January and 1 July of the given year. Sources as for figure 11.

15. Adult Paupers Insane, 1 January 1859 to 1890, by percent of Total Adult Paupers

This graph shows the percentage of adult paupers who were insane, in total and by sex. The source of the statistics from 1859 to 1882 is the Thirty-Sixth Annual Report of the Commissioners in Lunacy, PP 1882 (357) xxxii 1 at table iv, pp. 14 f., and for 1882 to 1890, the Forty-Fifth Annual Report of the Lunacy Commissioners, PP 1890-1 (286) xxxvi 1 at table iv, pp. 14 f.

16. Costs of Asylum Care, Relative to Total Poor Law Expenditures on Relief of the Poor, 1857 to 1890

Shows the maintenance costs for pauper lunatics in asylums and licensed houses, and the percentage this comprises of the total costs expended for the relief of the poor. The asylum costs do not include outdoor relief or

costs associated with workhouse care. On their face, they appear to be only maintenance costs, with costs associated with removal contained under a residual category for miscellaneous expenses associated with relief. Total poor relief figure (forming the basis of the percentage comparison) includes costs of indoor and outdoor relief, care of the insane (as above), principal and interest expenditures for workhouse loans, salaries of officers, and other costs "immediately connected with relief". It does not include costs of other services which the poor rate was used as a mechanism to fund, e.g., policing, highway expenses, expenses associated with proceedings before Justices, vaccination fees, and the costs of maintaining jury lists, which increased the poor rate in total by roughly one third. Source of statistics: Twentieth Annual Report of the Local Government Board, PP 1890-1 [6460] xxxiii 1 at appendix 118.

Institutionalization, Private vs. Pauper 1 January 1849-1890

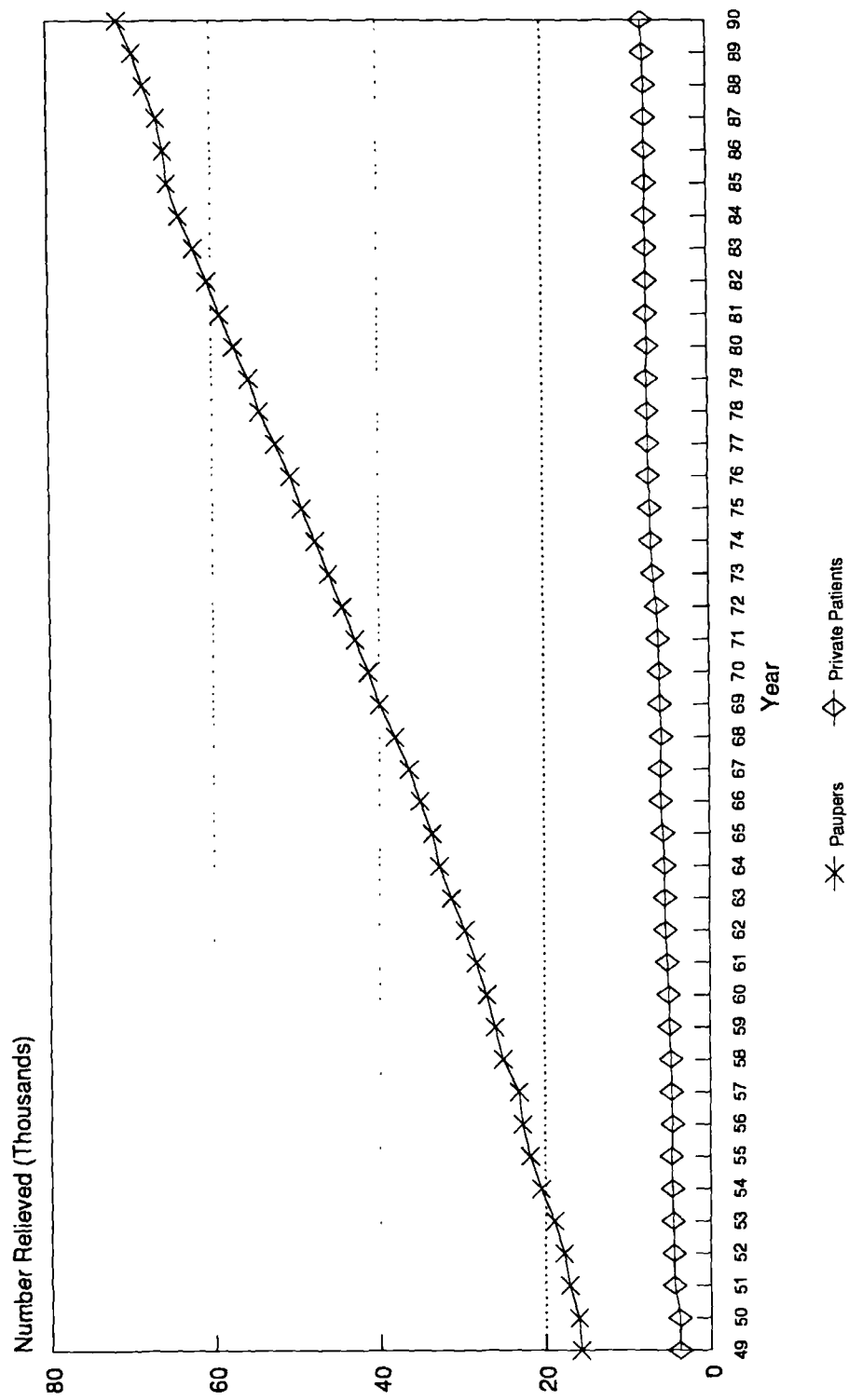


Figure 1

Institutionalization, Private vs. Pauper 1 January 1849-1890, by per cent

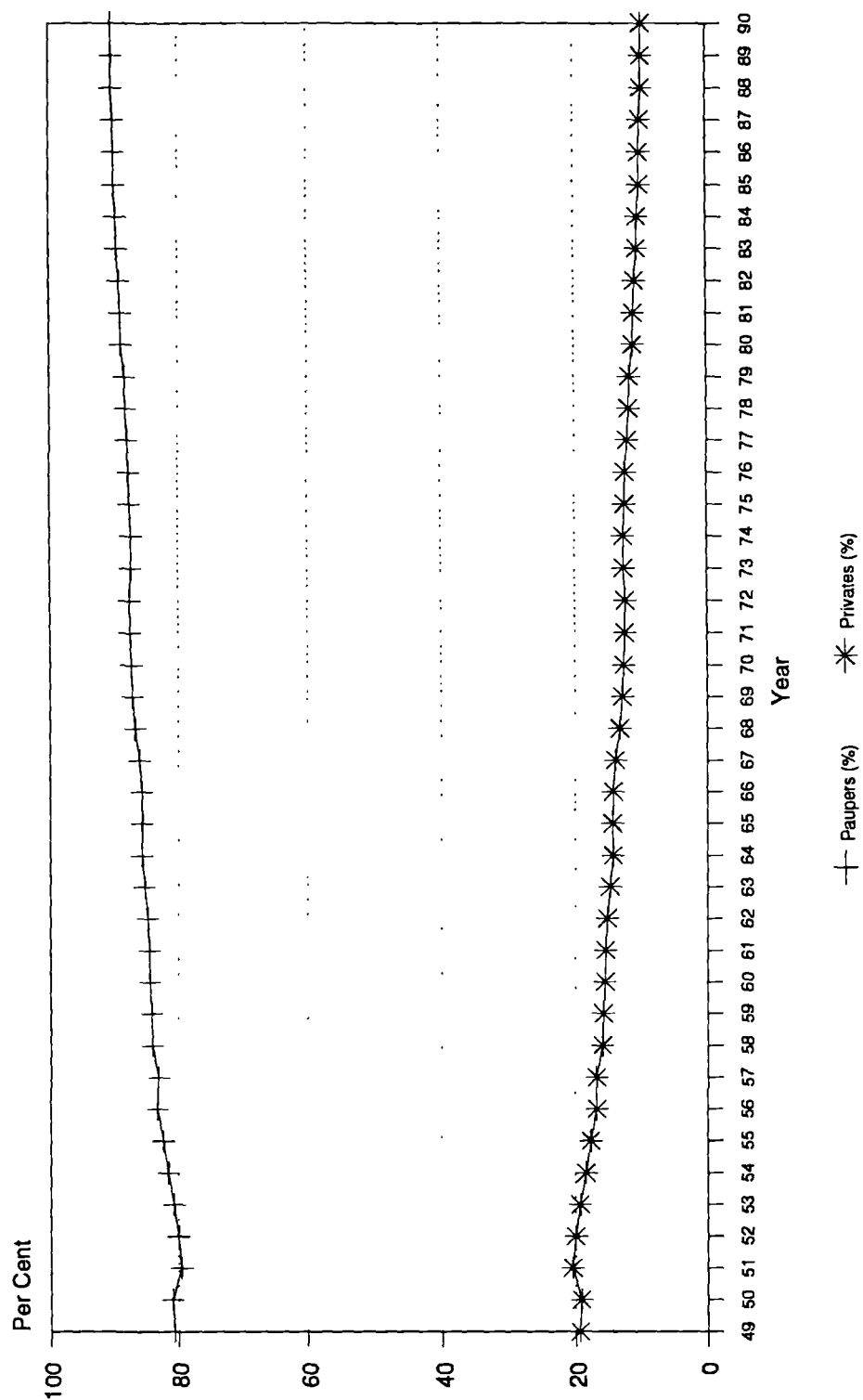


Figure 2

Inmates of County Asylums 1 January 1849-90, Private vs. Pauper

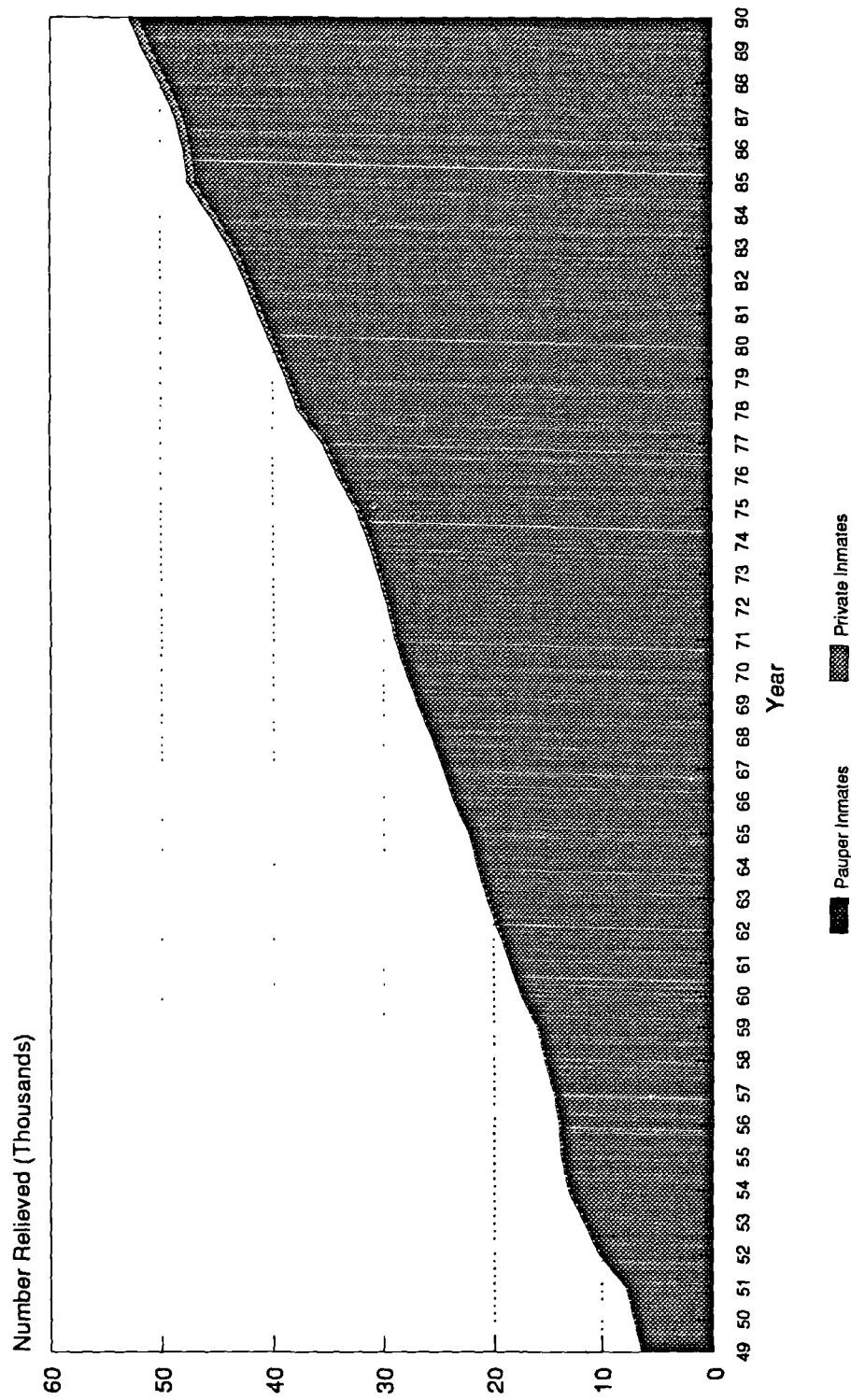


Figure 3

Inmates of County Asylums

Private vs. Pauper, 1 Jan 1849-90, By %

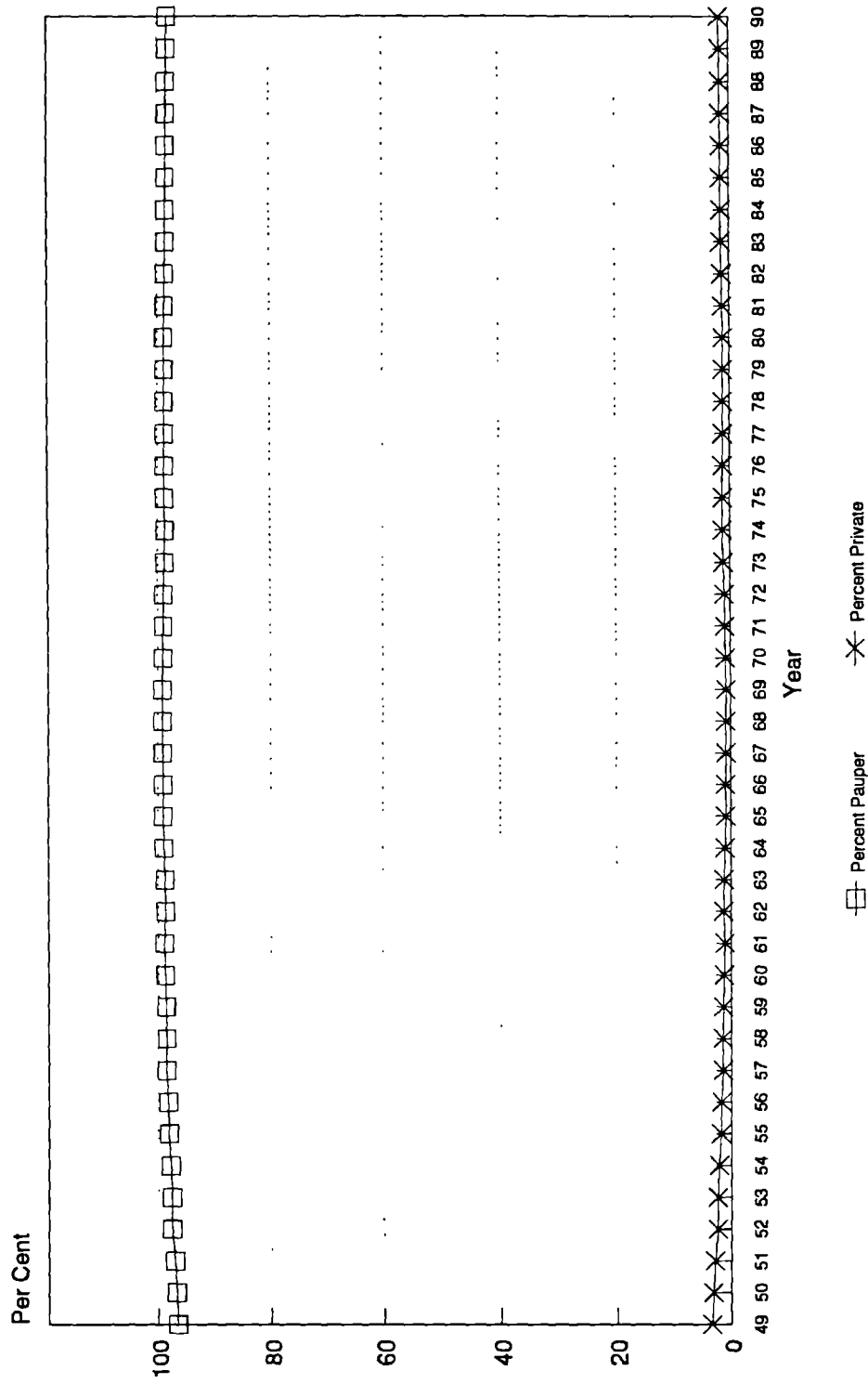


Figure 4

Relief of Pauper Insane, 1 Jan. 1849-90

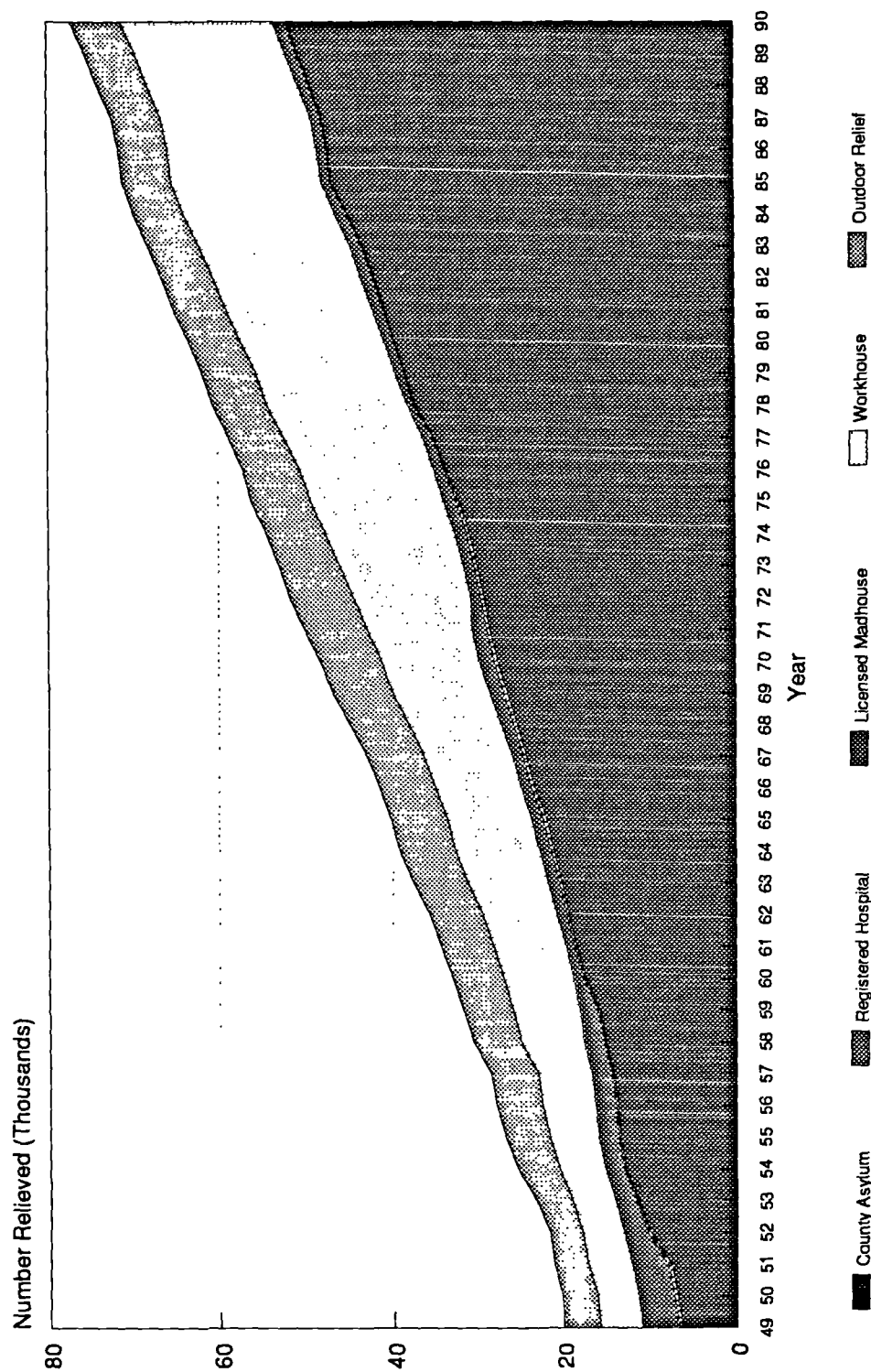


Figure 5

Relief of Pauper Insane, 1 Jan. 1849-90 By Per Cent

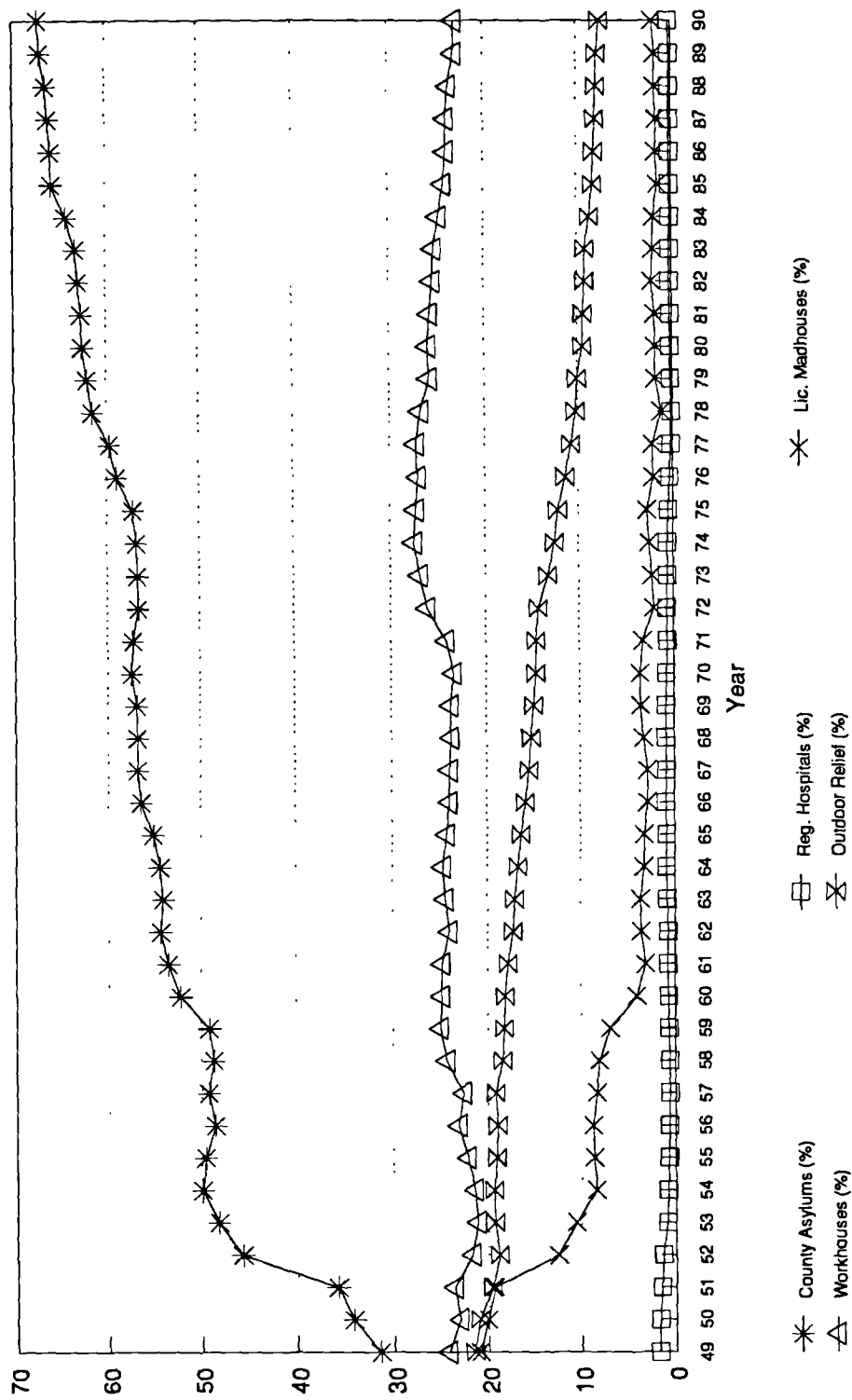


Figure 6

Adult Paupers in Workhouses 1 January 1849-90

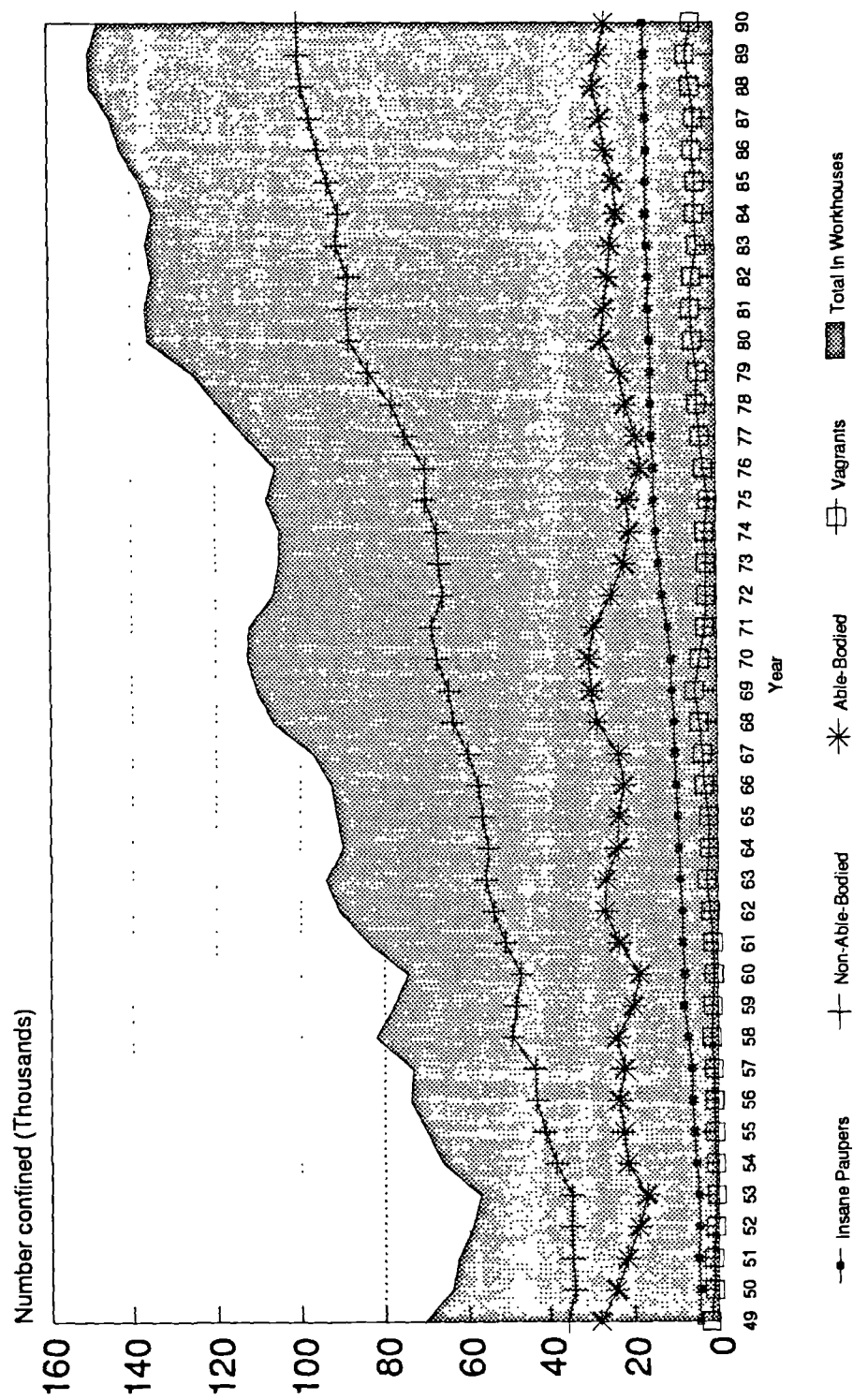


Figure 7

Adult Paupers in Workhouses 1 January 1849-90, By Per Cent

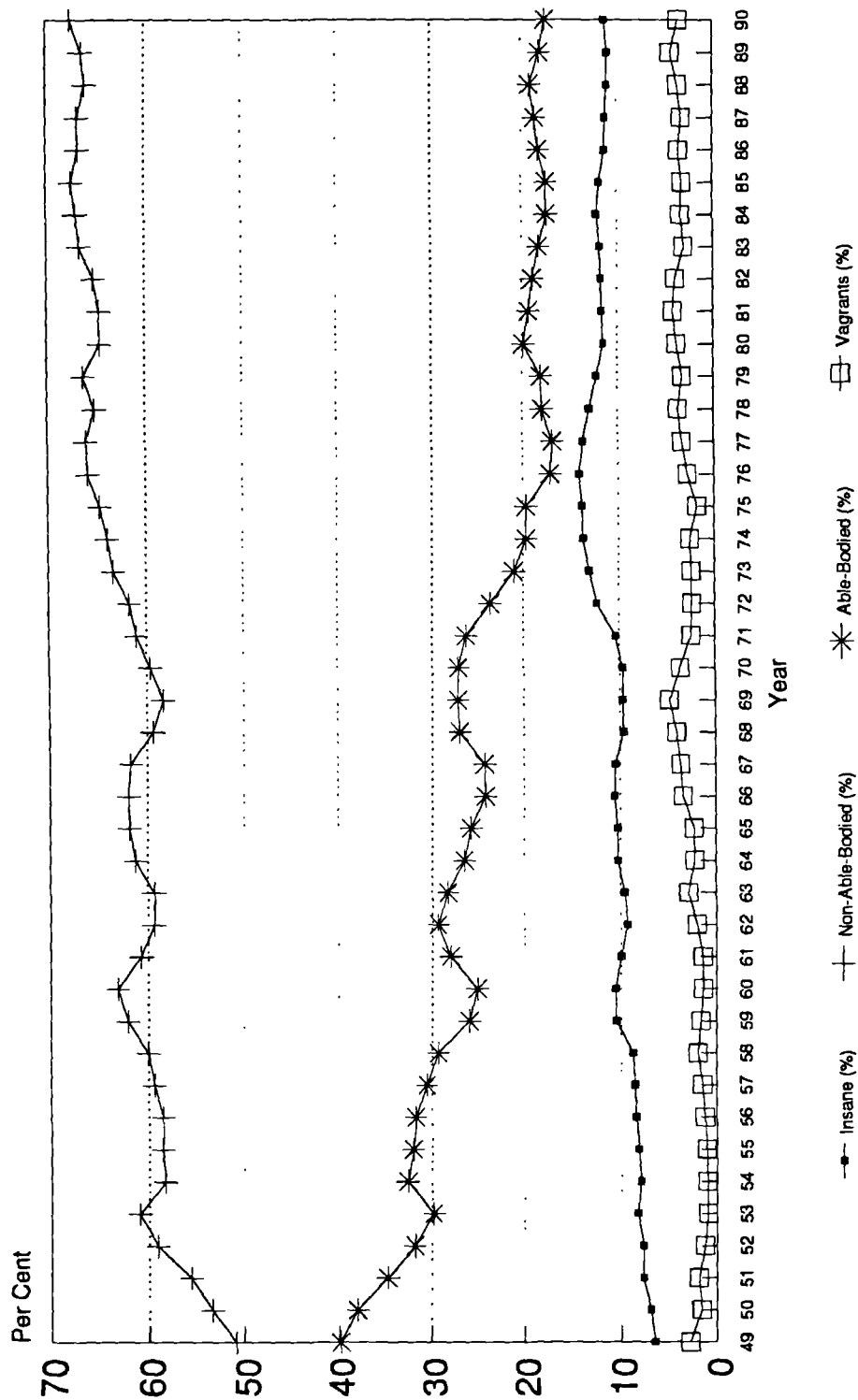


Figure 8

Out-Relief of Adults 1 January 1849-90

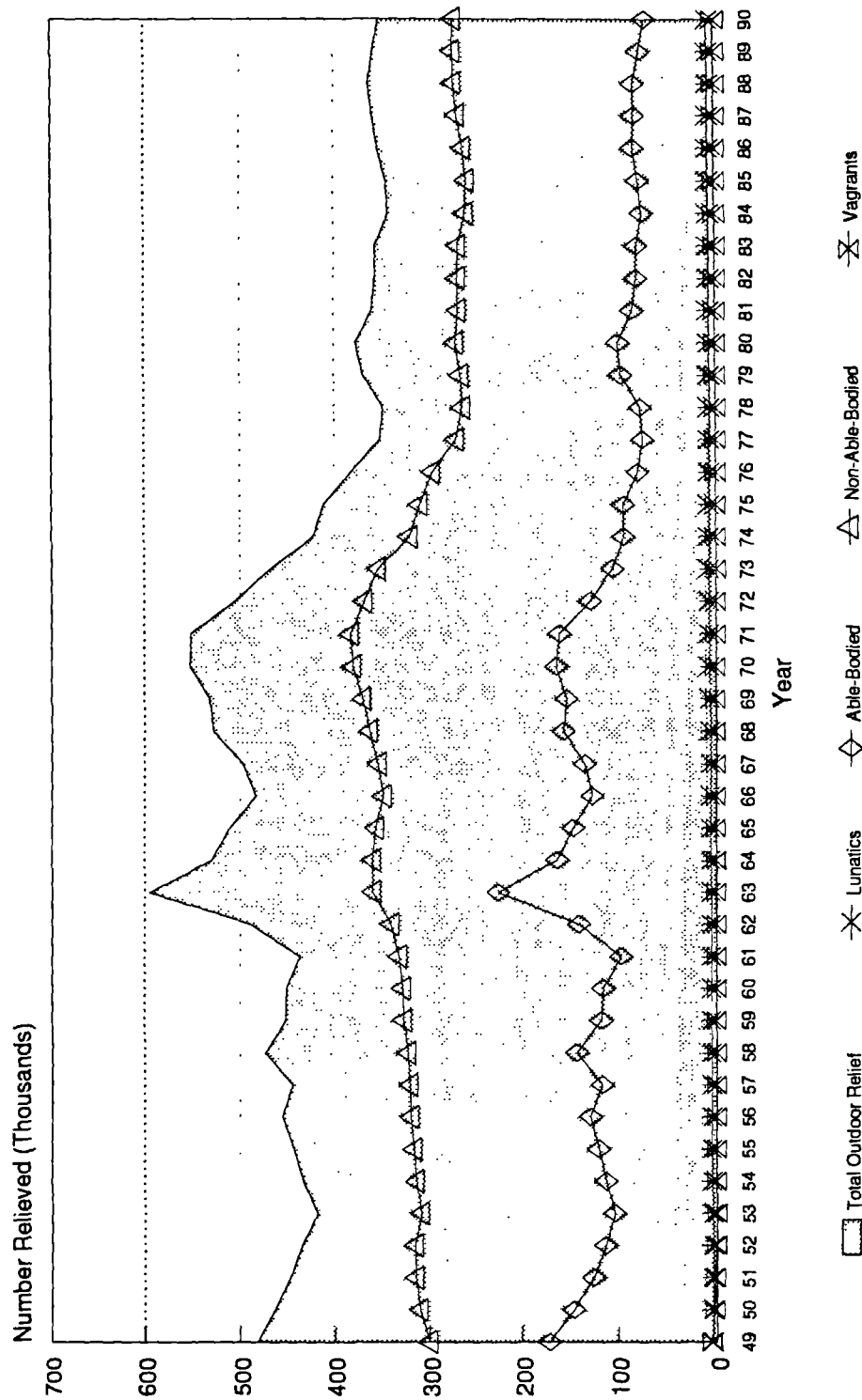


Figure 9

Out-Relief of Adults 1 January 1849-90, by Per Cent

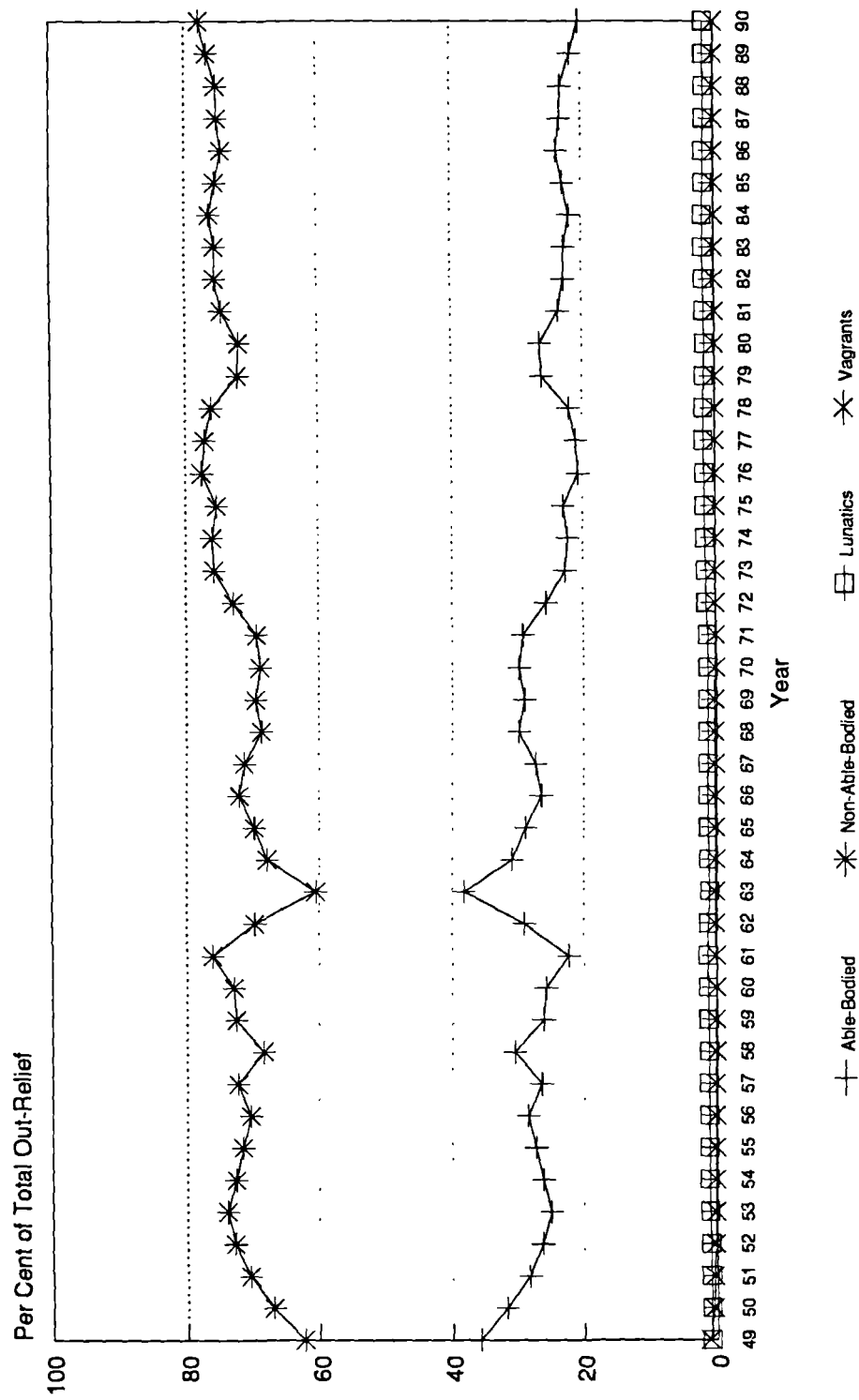


Figure 10

Pauper Adults in Workhouses 1 July 1849-90

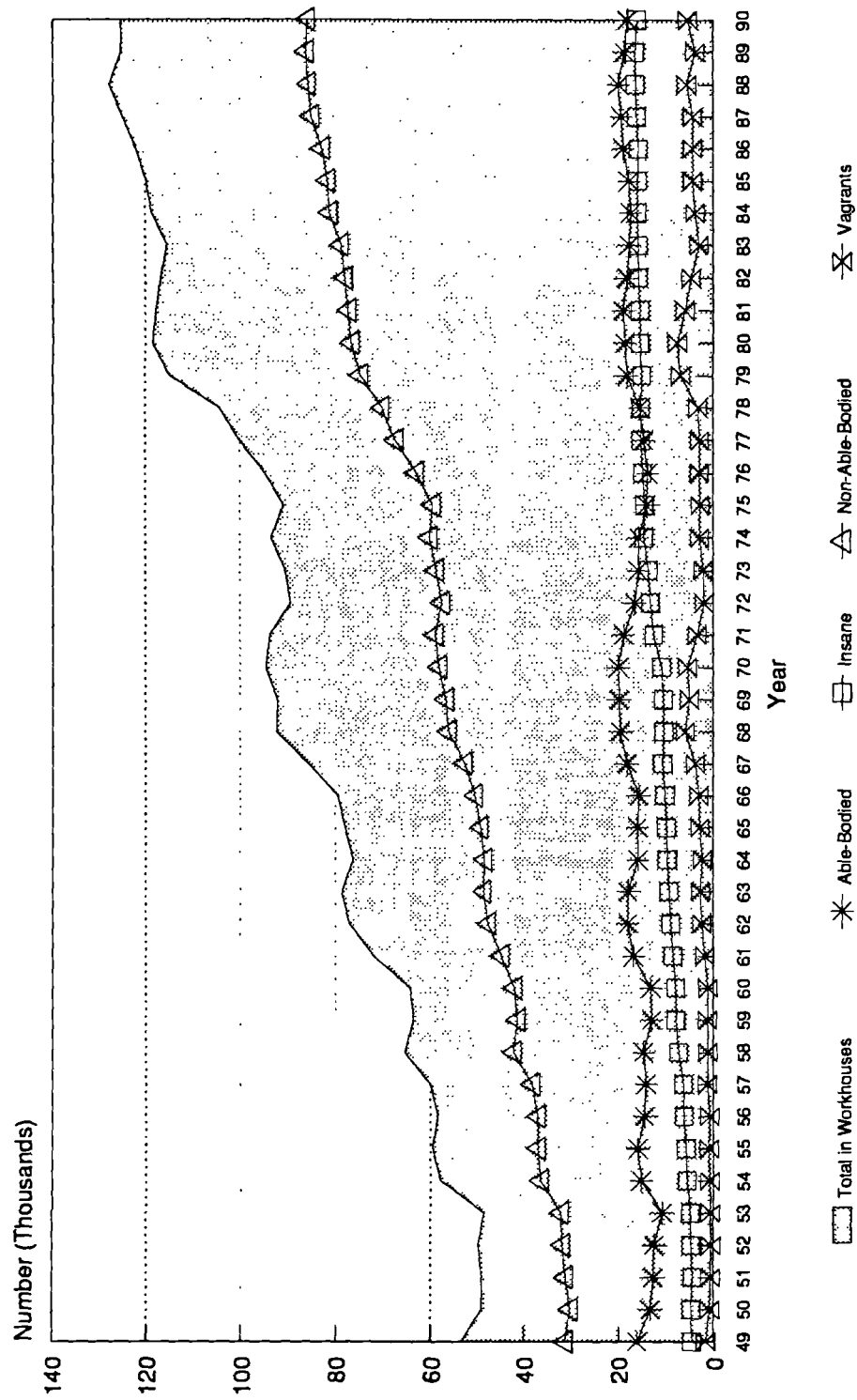


Figure 11

Pauper Adults in Workhouses 1 July 1849-90, By Per Cent

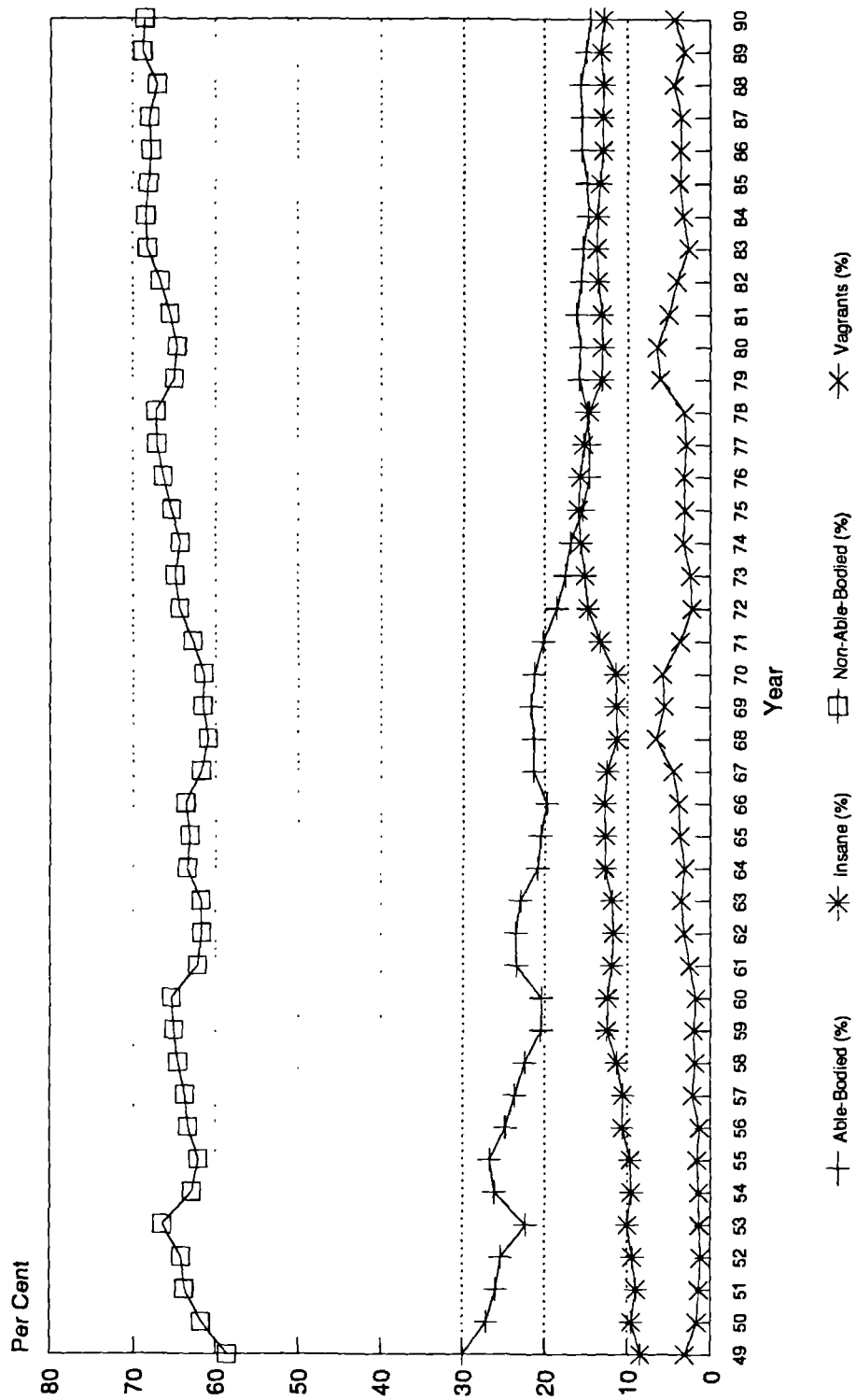


Figure 12

Indoor Relief, Able-Bodied Adults 1849-90, 1 Jan. vs. 1 July

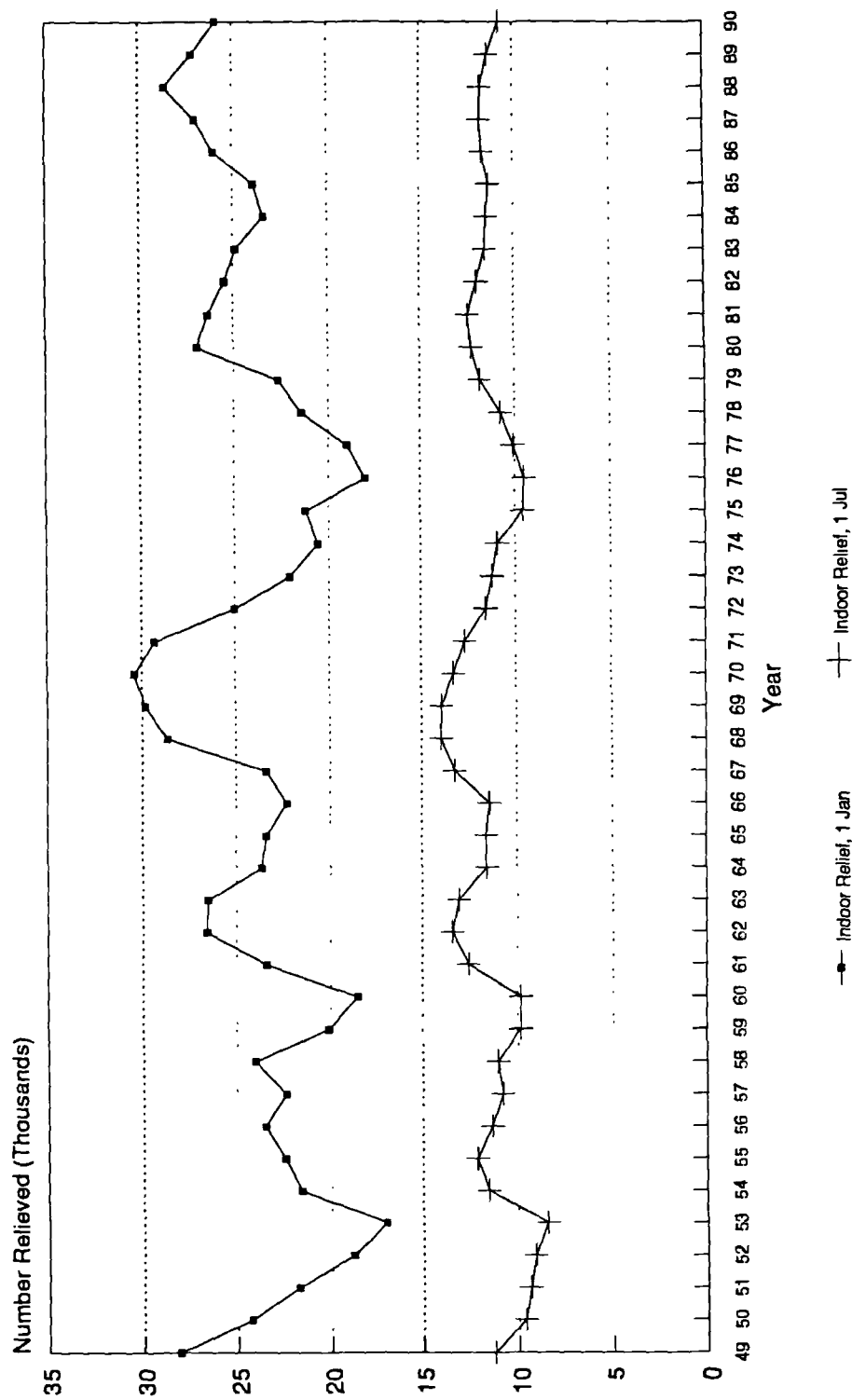


Figure 13

Total Relief, Able-Bodied Adults 1849-90, 1 Jan. vs. 1 July

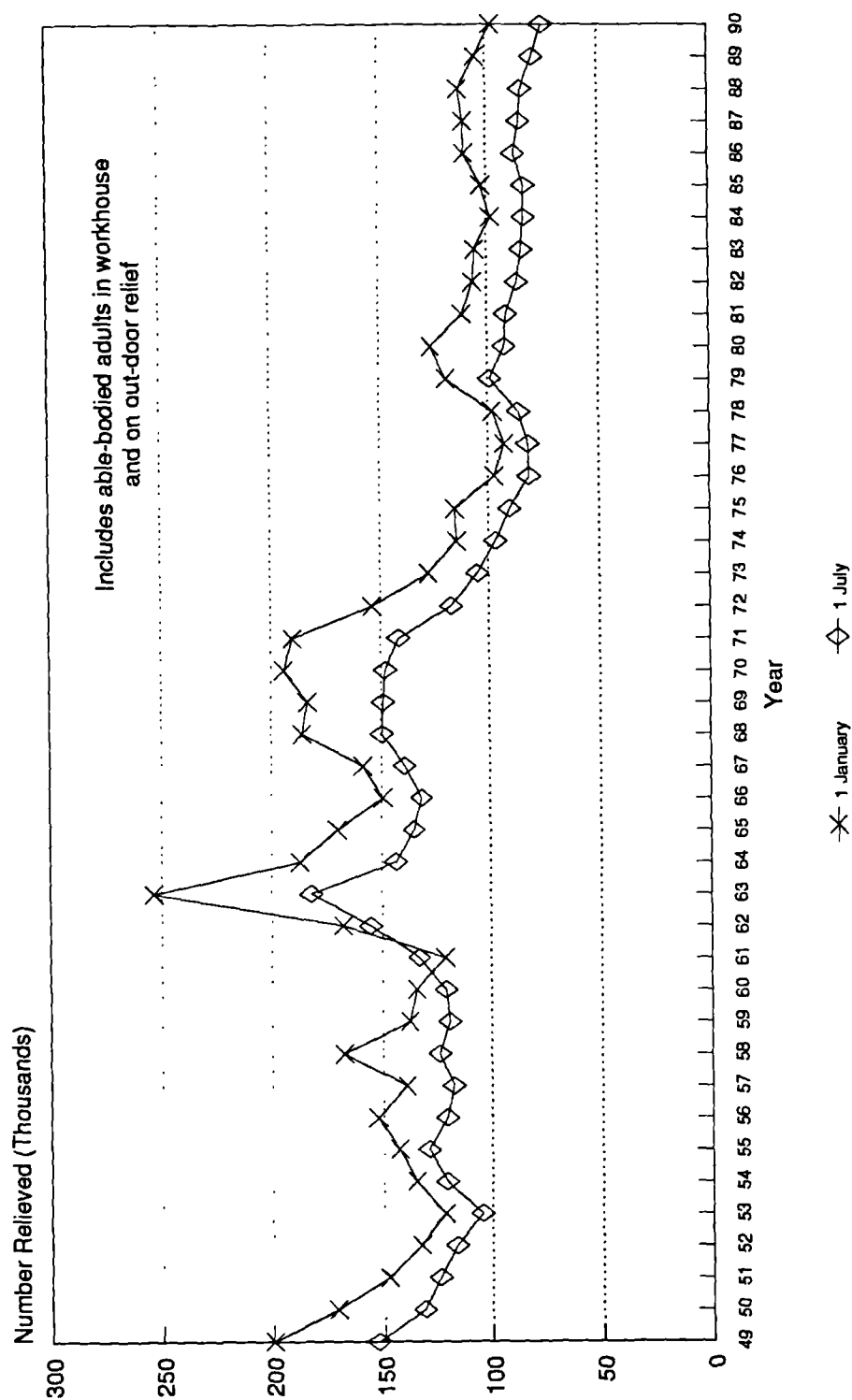


Figure 14

Total Pauper Insane, 1 Jan. 1859-90 By sex, and as % of Total Adult Paupers

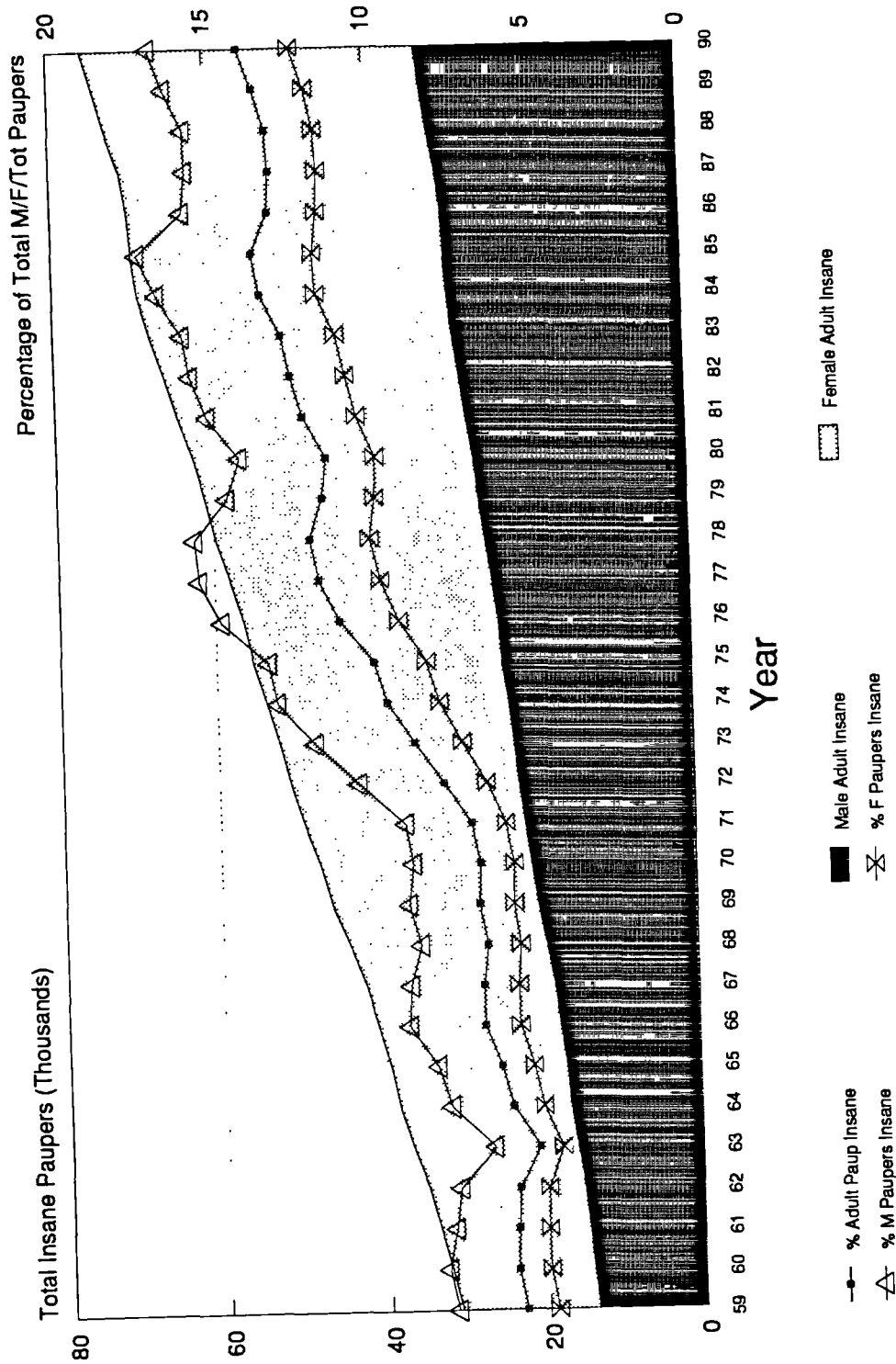


Figure 15

Cost of Maintenance in Asylums, 1857-90 Absolute and per cent of Total Poor Rel.

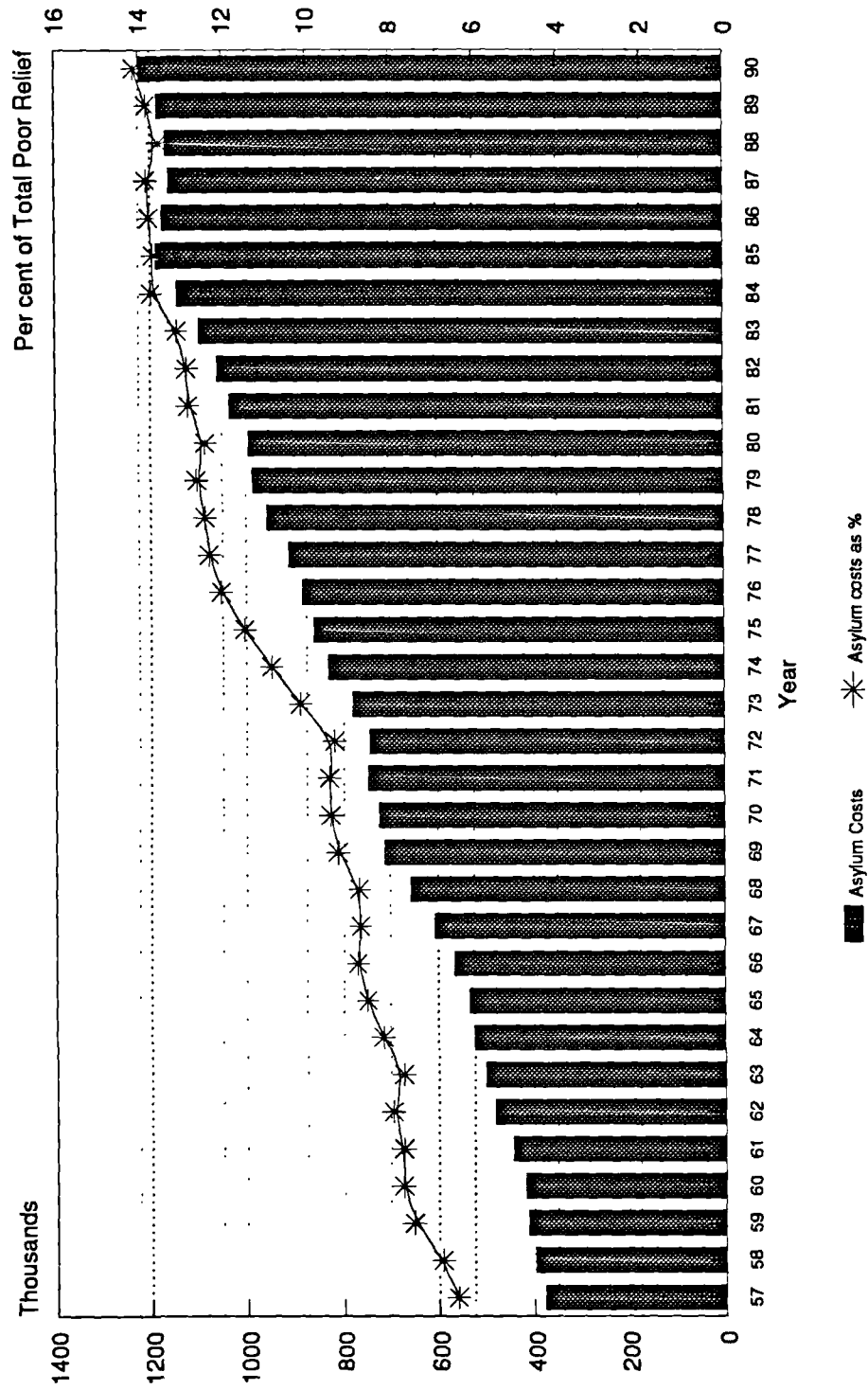


Figure 16

Appendix 2: Leicestershire Records: Statistical Overview

List of Tables

1. Overview of Persons in Leicestershire and Rutland Lunatic Asylum, 1 January 1849-70
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6. Duration of Attack Prior to Admission, Paupers vs. Private Admissions, 1861-65
- 7A. Distribution of Paupers for whom Causes shown by Relieving Officers.
- 7B. Causes of Insanity Shown on Pauper Admission Certificates, 1861-65
8. Causes of Insanity of Paupers, as found in Patient Register
9. Causes of Insanity of Paupers, as found in "Cause" column of Case Books
10. Causes as found in "Cause" column of Case Books, supplemented by comments in treatment notes

Table 1: Overview of Persons in Leicestershire and Rutland Lunatic Asylum, 01 January 1849-70.

Year	Paupers			Criminals			Private/Charity			Total		
	M	W	Tot	M	W	Tot	M	W	Tot	M	W	Tot
49												175
50			155						51			206
51			171						48			219
52			186						47			233
53	90	93	183				24	26	50	114	119	233
54	79	91	170	14	5	16	22	23	45	115	119	234
55	89	111	200	14	3	17	24	30	54	127	144	271
56	101	127	228	13	3	16	21	30	51	135	160	295
57	104	128	232	13	3	16	24	32	56	144	163	304
58	117	134	251	13	2	15	26	27	53	156	163	319
59	115	131	246	14	2	16	22	29	51	151	162	313
60	131	158	289	15	2	17	24	28	52	170	188	358
61	175	142	317	15	2	17	24	30	54	181	207	388
62	150	176	326	14	2	16	20	36	56	184	213	397
63	147	167	314	14	2	16	22	34	56	183	203	386
64	142	178	320	15	2	17	29	27	56	186	207	393
65	151	178	329	13	2	15	23	23	46	187	203	390
66	154	172	326	11	2	13	24	28	52	189	202	391
67	159	182	341	11	1	12	22	25	47	192	208	400
68	158	194	352	12	1	13	21	25	46	191	220	411
69	201	228	429	7	1	8	21	29	50	229	258	487
70	167	184	351	7	--	7	22	27	49	196	211	407

Source: Annual Reports of the Leicestershire and Rutland Lunatic Asylum.

Table 2: Admissions and Discharges, 1849-70

Year	Admitted	D I S C H A R G E S				Died
		Cured	Relieved	Not Relieved	Total	
1849	121	51	6	0	57	33
1850	101	49	13	0	62	26
1851	95	46	15	0	61	20
1852	85	50	16	0	66	19
1853	120	65	18	0	83	36
1854	131	47	23	0	70	24
1855	105	39	17	0	56	25
1856	107	53	11	3	69 ¹	29
1857	116	52	12	0	64	35
1858	96	56	14	0	70	30
1859	132	37	7	1	47 ²	40
1860	111	43	11	0	55 ³	26
1861	107	45	3	3	51	46
1862	72	32	5	1	38	46
1863	74	33	8	5	46	21
1864	78	28	2	3	34 ⁴	47
1865	78	27	7	7	41	36
1866	78	27	12	0	39	30
1867	73	24	9	0	34 ⁵	28
1868	163	42	6	0	49 ⁶	38
1869	130	40	90 ⁷	27	157	53
1870	90	32	9	0	41	39

Source of table: annual reports of the Leicestershire and Rutland Lunatic Asylum.

¹Includes two escapees.

²includes 2 escapees.

³Includes one escapee.

⁴includes one escapee.

⁵Includes one escapee.

⁶Includes one escapee.

⁷The bulk of these patients and the 27 "relieved" patients were transferred to the new Leicester Borough Asylum.

Table 3: Chronic Pauper Patients vs. Total Pauper Patients, 1857-69

Year	Paupers in Asylum more than 2 Years on 31 December	Total Paupers in Asylum, 31 December	Percentage Paupers in Asylum over 2 Years
1857	168	251	67
1858	185	246	64
1859	190	289	66
1860	207	317	65
1861	195	326	60
1862	246	314	78
1863	275	320	86
1864	266	329	81
1865	266	326	82
1866	274	341	80
1867	274	352	78
1868	298	429	69
1869	267	351	76

Source: Annual Reports of the Leicestershire and Rutland Lunatic Asylum.

Table 4: Basic Breakdown of Pauper Admissions, 1861-65

	Men	Women	Total
Domestic Admissions	77	100	177
Workhouse Admissions	37	42	79
"Wanderers"	21	16	37
Misfits	16	17	33
Total	151	175	326

Source: Abstracted from admission documents, Leicestershire and Rutland Lunatic Asylum.

Table 5: Duration of Attack Prior to Admission, Paupers, 1861-65

Duration of Attack prior to Confinement	Domestic Admissions			Workhouse Admissions			Wan . Tot.	Mis -fits Tot.	Total Paupers Admitted		
	M	W	Tot.	M	W	Tot .			M	W	Tot .
1 week or less	16	25	41	7	4	11	13	3	31	37	68
1 week to 1 month	27	28	55	9	9	18	9	14	50	46	96
1 to 3 months	18	24	42	4	14	18	3	8	27	44	71
3 to 12 months	4	11	15	3	4	7	5	5	12	20	32
Over 1 Year	10	10	20	9	11	20	3	3	22	24	46
Unknown/Not Given	2	2	4	5	0	5	4	0	9	4	13
Totals	77	100	177	37	42	79	37	33	151	175	326

Source: Statements of Relieving Officers, Admission Documents, Leicestershire and Rutland Lunatic Asylum.

Table 6: Duration of Attack Prior to Confinement, Pauper vs. Private, 1861-65.

Duration of Attack Prior to Confinement	Paupers			Private Patients			Total		
	M [%]	W [%]	Tot [%]	M	W	Tot [%]	M [%]	W [%]	Tot [%]
1 week or less	31 ⁸ [21]	37 [21]	68 [21]	5	5	10 [16]	36 [20]	42 [20]	78 [20]
1 week to 1 month ⁹	50 [33]	46 [26]	96 [29]	8	7	15 [23]	50 [33]	46 [26]	96 [29]
1 to 3 months	27 [18]	44 [25]	71 [22]	7	7	14 [22]	34 [19]	51 [25]	85 [22]
3 to 12 months	12 [8]	20 [11]	32 [10]	5	4	9 [14]	17 [9]	24 [12]	41 [11]
Over 1 Year	22 [15]	24 [14]	46 [14]	5	7	12 [19]	27 [15]	31 [15]	58 [15]
Unknown/Not Given	9 [6]	4 [2]	13 [4]	1	3	4 [6]	10 [5]	7 [3]	17 [4]
Totals Inmates	151	175	326	31	33	64	182	208	390

Source: Statements of relieving officers (for paupers) and persons signing committal orders (for private patients), contained in admission documents to Leicestershire and Rutland Lunatic Asylum.

⁸Note: the percentages in brackets represent the proportion of the figure at the bottom of the column; e.g., in this case [21] means that twenty-one per cent of pauper men were confined within one week of the commencement of their attack.

⁹Admissions falling on the boundary line have been included in the shorter time category; e.g., persons whose attack had lasted precisely one month were categorized in this category, not the next one.

Table 7A: Distribution of Paupers for whom causes Shown by Relieving Officer

Paupers where causes shown	Domestics			Workhouse			Wan Tot	Mis-fits Tot	Total		
	M	W	Tot	M	W	Tot			M	W	Tot
Number	19	22	41	6	3	9	10	4	34	30	64

Table 7B: Causes of Insanity Shown on Pauper Admission Certificates, 1861-65

<u>Cause</u>	<u>Frequency of Occurrence</u>
Religion	11
Business/Employment	9
Puerperal Mania/Childbirth	7
Heredity/Congenital Factors	7
Grief	6
Intemperance	5
Head Injury	4
Other Injury	4
Idiocy/Imbecility/etc.	3
Epilepsy/Fits	3
Desertion by Spouse	2
Brain disease	2
Other disease/fever	2
Fear of Poverty	2
Drugs	2
Old Age	2
Bad Habits	1
Family Trouble	1
Fright	1
Ill-treatment by Spouse	1
Trouble over Settlement	1
<hr/>	
TOTAL	77

Source: Admission Documents, Leicestershire and Rutland Lunatic Asylum.

Table 8: Causes of Insanity of Paupers, as found in Patient Register

	Domestics			Workhouses			Wan	Misf	Total		
	M	W	Tot	M	W	Tot			M	W	Tot
Paupers where causes shown	53	56	109	26	22	48	22	20	103	96	199
Causes											
Hereditary/ Congenital	11	9	20	15	10	25	3	5	32	21	53
Poverty	11	15	26	3	3	6		6	16	22	38
Intemperance	12	2	14	2	3	5	8	3	24	6	30
Puerp. Mania/ Childbirth		10	10		1	1	2	2		15	15
Old age	4	4	8	2	3	5	1		6	8	14
Other Disease/ Fever	4	3	7		1	1	2	2	7	5	12
Grief/Anxiety	3	4	7				2		4	5	9
Hysteria		7	7		1	1		1		9	9
Brain disease	5		5	1		1	1	1	6	2	8
Debility		1	1	2	2	4	1		2	4	6
Catoxia	2	1	3				2		3	2	5
Head Injury				3					3		3
Epilepsy/Fits	1								1		1
Other Injury	1								1		1
Drugs		1								1	1
Family Trouble							1		1		1
Fright		1								1	1
Total Causes	54	58	112	28	25	53	23	20	106	102	208

Source: Patient Register, Leicestershire and Rutland Lunatic Asylum, LRO DE 3533/147.

Table 9: Causes as found in "Cause" column of Case Books (Paupers)

	Domestics			Workhouses			Wan	Misf	Total		
	M	W	Tot	M	W	Tot			M	W	Tot
Paupers where causes shown	48	48	96	22	14	36	23	12	94	73	167
Causes											
Hereditary/ Congenital	11	14	25	14	3	17	3	5	31	19	50
Intemperance	12	3	15	2		2	7	2	22	4	26
Grief	4	5	9		1	1	4		5	9	14
Poverty	4	4	8		3	3	1	1	5	8	13
Puerp. Mania/ Childbirth		9	9				2	1		12	12
Religion	6	4	10				1		7	4	10
Other Disease/ Fever	1	2	3		1	1	1	4	6	3	9
Brain Disease	2	1	3	4	1	5			6	2	8
Epilepsy/Fits	3		3		3	3			3	3	6
Old age	1	1	2	1	3	4			2	4	6
Business/ Employment	3		2		1	1	2		4	2	6
Other Injury	3		3				2		5		5
Head Injury				2	1	3			2	1	3
Desertion		3	3							3	3
Idiocy/imb./etc				1		1	1		1	1	2
Family Trouble	2		2						2		2
Hysteria		1	1		1	1				2	2
Fear poverty							1			1	1
Disappointed love		1	1							1	1
Bad habits	1		1						1		1
Fright		1								1	1
Albresiamania		1	1							1	1
Debility		1	1							1	1
Birth of illigit. child		1	1							1	1
Totals	52	52	104	24	18	42	25	14	102	83	185

Source: Case books of Leicestershire and Rutland Lunatic Asylum, 1861-65.

Table 10: Causes as found in "Cause" column of Case Books, supplemented by comments in treatment notes (Paupers)

	Domestics			Workhouses			Wan	Misf	Total		
	M	W	Tot	M	W	Tot			M	W	Tot
Paupers where causes shown	58	66	124	29	27	56	26	22	114	114	228
Causes											
Hereditary/ Congenital	11	14	28	14	3	17	2	5	31	18	48
Intemperance	18	4	22	4	1	5	10	3	32	8	40
Poverty	10	12	22	2	6	8	1	3	13	21	34
Idiocy/imb/etc	3	4	7	9	6	15	1	4	14	13	27
Grief	5	6	11		1	1	4	2	6	12	18
Epilepsy/Fits	5	2	7	2	7	9		1	7	10	17
Puerp. Mania/ Childbirth		12	12				2	2		16	16
Religion	6	7	13				1	1	7	8	15
Other disease/ fever	3	4	7	1	1	2	3	2	9	5	14
Brain disease	4	1	5	4	2	6			8	3	11
Hysteria		6	6		2	2				8	8
Old age	1	2	3	1	4	5			2	6	8
Business/Emp.	2	1	3		1	1	2	1	4	3	7
Head injury				2	1	3		1	3	1	4
Other injury	3		3					1	4		4
Bad habits	2		2	1	1	2			3	1	4
Family trouble	2	1	3		1	1			2	2	4
Desertion		3	3							3	3
Neglect		1	1					2		3	3
Debility	1	1	2						1	1	2
Fear poverty							1			1	1
Disapp. love		1	1							1	1
Drugs		1	1							1	1
Fright		1	1							1	1
Birth illeg. child		1	1							1	1
Blindness					1	1				1	1
Total	76	85	161	40	38	78	27	28	145	148	295

Source: Case books of Leicestershire and Rutland Lunatic Asylum, 1861-65.

Appendix III: Dietaries, Leicester Asylum and Leicester Workhouse

LEICESTER WORKHOUSE DIETARY¹

The following was the original dietary of the workhouse, instituted in November 1837:

Breakfast and Supper:

milk porridge and bread -- 1 1/2 pt. porridge and 7 oz. bread for men, 1 1/4 pt. porridge and 6 oz. bread for women, and tea and coffee with raw sugar for the aged and infirm.

Dinner:

two days: beef broth (made with 5 stone of beef without bone to make enough for 100 persons), as much as the inmates wanted, and bread -- 8 oz. for men and 7 oz. for women;

two further days: cold meat and potatoes -- 7 oz. meat for men and 6 oz. for women and potatoes without stint;

two further days: meat soup thickened with peas and potatoes (made from the bones of the meat cooked on the two meat days);

¹Source: K. Thompson, "The Leicester Poor Law Union, 1836 - 71", Diss, University of Leicester, 1982, at 119 f.

seventh day: suet pudding with a sauce made of treacle, flour, water and vinegar. The pudding was made from 1 1/2 lb. of suet to a stone of flour, lightened with bread; 16 oz. was the men's allowance and 14 oz. for the women, but in fact unstinted.

In addition each pauper was to be allowed 1/2 pint 'small beer' on the cold meat dinner days.

Commencing in February 1838, suppers were changed to bread and cheese, unless paupers preferred porridge. Otherwise, the dietary remained essentially unaltered through 1870.

ASYLUM DIETARY²

Breakfast:

Coffee or Cocoa, 1 pint. Bread 6 oz (men) or 5 oz (women). 1/3 oz butter.

Dinner:

Meat days [Sunday, Mon, Wed, Thurs]: 6 oz (men) 5 oz (women) cooked, free from bone, with 3 oz of Bread; 12 oz. veg. in season.

Tuesdays: Irish stew, 16 oz., with 3 oz of bread. Irish stew, per lb, contained 2 oz meat, and 10 oz. potatoes.

Friday: Soup day. 1 oz cheese. males: 1 1/2 pints soup with 6 oz bread; females:

²Source: Twelfth Annual Report of United Committee of Visitors of Leicester and Rutland Lunatic Asylum, (1860) LRO DE 3533/13.

1 pint soup with 4 oz bread. 1 gal. soup: 1 1/2 lb. Legs and Shins; 2 oz. oatmeal, 2 oz. peas with carrots onions and herbs.

Saturday: Meat pie: 1 lb., 3 oz. bread, 1 oz. cheese.

1/2 pint beer daily, excepting Fridays.

Supper: Tea, 1 pint, 1/3 oz butter, 6 oz. (men) or 5 oz (women) of bread.

Patients employed in the Wards and Laundry are allowed for Luncheon, 4 oz. bread, 1 oz. cheese, and 1/2 pint Beer extra. Those employed in the workshops and farm, 4 oz Bread, 1 oz. Cheese, and 1 pint Beer, extra.

Extra diet and discretion of Med. Super.

Appendix 4: Forms of Admission Documents and Case Books

Casebooks, 1845 Format:

The record for each patient is on two facing pages of the book, each page being roughly ten inches by eighteen inches. The information given is as follows.

In a band across the top of the two pages:

Number. [The accession number to the institution.]

Name. [Both Christian and surname.]

Age.

Place of Abode. [Usually an address. Occasionally refers to a union house.]

Class or parish. [Class numbers refer to the standard classification in the asylum: first class being county paupers, second class being out-county paupers, third class being subscription patients, fourth class being private patients. This appears to be for purposes of chargeability. Thus a soldier found wandering (#590) was listed as "County of Leicester" in this category, even though there is nothing obvious in his background (which appears largely unknown) to associate him with the county. Note that he would be chargeable to Leicestershire, however, given his admission docs in this circumstance.]

Occupation or profession.

Married, single, or widowed.

Number of children.

Date of admission.

Date of discharge.

The left hand page is a list of set questions, with spaces for answers to be written in.

The questions are as follows:

When did this attack commence?

Was it preceded by any severe or long-continued mental emotion or exertion?

Did it succeed any serious illness or accident affecting the nervous system?

Is it consequent on pregnancy, parturition, or lactation?

Has it arisen or been accompanied by any irregularity of the uterine functions?

Has the Patient suffered from former attacks of the disease? and, if so, how long were the intervals of sanity?

What is the supposed cause of the malady?

Has the Patient attempted self-destruction or violence towards others?

Is the patient prone to tear clothes or break furniture?

Has the Patient refused to take food?

Are the Habits of the Patient cleanly?

Is the Patient subject to Fits or Palsy?

Does the Patient labour under any other Disease?

What is the state of the general health?

Has any Relative of the Patient been insane

What are the deranged ideas or mental hallucinations under which the Patient has laboured?

By whose authority sent? Medical Certificate. [i.e., this box was to include both the persons who signed any warrants, and the name of the doctor signing the medical certificate. The dates of the documents were also given.]

The right-hand page is given over to treatment and observations of the patient.

Case Books: 1856 Format

The two page format is maintained in the new version. The entire right hand page, and the bottom fifth of the left hand page, are free for treatment notes. The top four fifths of the left-hand page are pre-printed on a format as follows.

In a band across the top are patient number and name, date of admission, height and weight, [marital] state and age, number of children, duration of attack, whether first attack, and residence.

There are a series of categories in a band down the left hand side of the page, with spaces for the following information provided to their right: by whose order sent; name, abode, and relationship of nearest known relative; occupation; character; education [entries include whether pauper was literate]; religion; Assigned causes, with spaces for moral, physical, and hereditary causes; physical state; and symptoms of mental disorder.

Admission Documents

The admission documents for 1860 to 1865 were prescribed by the 1853 act.¹ While this act did make minor modifications from the prescribed forms under the

¹16 & 17 Vict., c. 97, Sch. (F) No. 1 (Justice's order and statement of relieving officer) and 3 (medical certificate).

1845 act,² no alterations to these documents were made by the 1862 legislation. The statement signed by the Justice was relatively pro forma:

I *C.D.*, the undersigned, having called to my assistance a physician [*or surgeon or apothecary*], and having personally examined *A.B.*, a pauper, and being satisfied that the said *A.B.* is a lunatic [*or an idiot, or a person of unsound mind*], and a proper person to be taken charge of and detained under care and treatment, hereby direct you to receive the said *A.B.* as a patient into your Asylum. Subjoined is a Statement respecting the said *A.B.*³

The form instructed the Justices signing a form for a person detained as not under proper care and control, as distinct from a pauper from within the parish, to so indicate on the form by deletion of the words "a pauper", and insertion of an indication as to whether the person was found wandering at large, or was instead not under proper care, or cruelly treated. The statement was substantially similar to that under the 1845 act, with the exception of the phrase "a proper person to be taken charge of and detained under care and treatment", which replaced "a proper Person to be confined" in the 1845 statute.⁴

The statement of the relieving officer consisted in short answers to the following questions:

Name of patient, and christian name, at length.

Sex and age.

Married, single, or widowed.

Condition of life, and previous occupation (if any).

²8 & 9 Vict., c. 126, sch. (E)1.

³16 & 17 Vict., c. 97, Sch. (F) No. 1. Italics in original. Parenthetical statements in original, but irrelevant parenthetical comments deleted here to aid readability.

⁴8 & 9 Vict. c. 126, sch (E) no. 1.

The religious persuasion, as far as known.

Previous place of abode.

Whether first attack.

Age (if known) on first attack.

When and where previously under care and treatment.

Duration of existing attack.

Supposed cause.*

Whether subject to epilepsy.

Whether suicidal.

Whether dangerous to others.

Parish or union to which lunatic is chargeable (if a pauper or destitute lunatic).*

Name and christian name and place of abode of the nearest known relative of the patient, and degree of relationship (if known).⁵

Questions marked with an asterisk were introduced in the 1853 act. Apart from minor wording differences, the other questions had appeared in the 1845 act as well.⁶

The statement to be signed by the medical officer read as follows:

I, the undersigned, [*qualifications for practice to be set forth, e.g., 'being a Fellow of the Royal College of Physicians in London'*] and being in actual practice as a physician [or surgeon or apothecary] hereby certify, that I, on the day of , at , [*here insert the street and number of the house (if any) or other like particulars,*] in the county of , ... personally

⁵16 & 17 Vict., c. 97, sch. (F) no. 1.

⁶8 & 9 Vict., c. 126, sch. (E) no. 1.

examined A.B., of _____, [*insert residence and profession or occupation, if any,*] and that the said A.B. is a [*lunatic, or an idiot, or a person of unsound mind,*] and a proper person to be taken charge of and detained under care and treatment, and that I have formed this opinion upon the following grounds; viz.:

1. Facts indicating insanity observed by myself [*here state the facts*].

2. Other facts (*if any*) indicating insanity communicated to me by others [*here state the information, and from whom*].⁷

Once again, this essentially reflected the requirements of the 1845 act, although consistent with the change to the statement of the Justices, the 1845 statement of the medical officer had referred merely to "a proper Person to be confined", rather than "a proper person to be taken charge of and detained under care and treatment".⁸ Also, the 1845 forms did not provide a space for the medical man to detail the facts observed and communicated. As a result, at least in Leicester, the admission documents prior to the 1853 act generally do not contain this information.⁹

⁷16 & 17 Vict., c. 97, sch. (F) no. 3. Italics in original.

⁸8 & 9 Vict., c. 126, sch. (E) no. 1.

⁹Admission documents for 1851 and 1852 are contained in LRO DE 3533/225.

Appendix 5: Reform and the Collision of Central and Local Discourses: The Lunacy Commission and Workhouse Care

The belief in the opposition of the Lunacy Commissioners to the care of the insane in workhouses is almost dogmatic in the history of madness. The following comment of David Mellett is typical:

The singlemindedness of the Commissioners, closely linked to their unshakable faith in the asylum, and circumscribed by the letter of the law, was nowhere more in evidence than in their campaign against workhouse detention of the insane.¹

The image is of the crusaders for humanitarian care battling against parsimonious local authorities for the removal of the poor insane to places where decent accommodation and treatment might be offered. In prior accounts, here were the commissioners at their reforming best.

The documents would suggest that their position was not nearly so simple. As discussed above, the image presented by the local documents was of general co-operation. This image is not inconsistent with the annual and special reports of the Lunacy Commissioners in their first decade. In the 1840s, they had recommended large-scale transfers to workhouses from asylums,² and in their 1847 special report

¹The Prerogative of Asylumdom, (New York, London: Garland, 1982) at 134. Elsewhere, Mellett claims the Commissioners were "understandably hostile to the principle, as well as the realities of workhouse confinement.": id. at 141.

²Report of the Metropolitan Commissioners in Lunacy to the Lord Chancellor, (London: Bradbury and Evans, 1844) at 92, reprinting PP [HL] 1844 xxvi 1; Supplementary Report to the Home Secretary, PP 1847 [858] in octavo 1847-8 xxxii 371 at 36.

to the Poor Law Commissioners, they had been relatively supportive of workhouse care. The bulk of the inmates at that time were described as "those who from birth or from an early period of life have exhibited a marked deficiency of intellect as compared with the ordinary measure of understanding among persons of the same age and station", and they were held to be rightly kept in the workhouse:

For the most part they are harmless, tractable, and readily disposed to work; and with a little encouragement and superintendence from the Master or Matron often become extremely industrious and useful. ... So long as persons of this kind are kept within the precincts and subject to the discipline of the Workhouse, they conduct themselves well, and require slight degree of supervision. But when that supervision is withdrawn, and they are left at large to mix freely with their fellows in the ordinary intercourse of life, they are unable to resist the temptations that beset them; advantage is often taken of their weakness by the knavish and the profligate; and they are exposed to, and many commit, very serious mischief.³

Similarly of the second class, the demented and fatuous, no objection was raised to workhouse care. At that time, they estimated there to be 6,000 insane people in workhouses, "not more than a few hundreds -- probably not a tenth of the whole, [being] proper persons to be confined, in the narrow and technical sense of the term, that is to say, as patients in a Lunatic Asylum",⁴ and a much smaller number suitable to be left at large. Specialized wards for lunatics were spoken of not unfavourably:

... the patients are placed under attendants of their own, and have a more liberal dietary allowed to them, and where, except that they cannot have the benefit of much outdoor exercise or occupation, they receive all the advantages, as well as all the medical care, which could

³Appendix (A) to Supplementary Report to the Home Secretary, PP 1847 [858] in octavo 1847-8 xxxii 371 at 257-9.

⁴Appendix (A) to Supplementary Report to the Home Secretary, PP 1847 [858] in octavo 1847-8 xxxii 371 at 249.

be usefully bestowed on them in a chronic lunatic hospital.⁵

While refusing to approve of such wards explicitly, given their status as appended to workhouses and the consequent legal difficulties of confining persons therein, the commissioners did allow that such wards had "undoubtedly in some instances afforded a seasonable and salutary relief to County Asylums, as well as to the Workhouses themselves".⁶

It was not until the late 1850s, that the overall tone of the commissioners' public pronouncements altered. Most significant was the publication in 1859 of a special report on workhouse care, the tone of which might fairly be described as blistering.⁷ They moved from a position either ambivalent to or even supportive of workhouse care, to the offensive. The alteration in the public discourse can be understood as a result both of the increasing scale and sophistication of workhouse care of the insane, and also perhaps as a response to calls for a broad re-assessment of the lunacy laws.

As noted in chapter one, the explosion in asylum care had been matched proportionally by increases in numbers of insane housed in workhouses: throughout the second half of the century, a steady quarter of the pauper insane were housed in the workhouse. In numerical terms, this meant an increase from 4588 lunatic adults in workhouses in 1849, to 8133 a decade later.⁸ To provide for these paupers,

⁵Appendix (A) to Supplementary Report to the Home Secretary, PP 1847 [858] in octavo 1847-8 xxxii 371 at 281.

⁶Appendix (A) to Supplementary Report to the Home Secretary, PP 1847 [858] in octavo 1847-8 xxxii 371 at 281.

⁷Supplement to the Twelfth Annual Report of the Commissioners in Lunacy, PP 1859 1st sess. (228) ix 1.

⁸The 1849 statistic is drawn from the eleventh annual report of the Poor Law Board, PP 1858 1st sess. [2500] ix 741 at app. 33. The 1859 statistic is contained in the Ninth Annual Report of the Local Government Board, PP 1879-80 at app (D) 71.

workhouses were increasingly building dedicated wards for their insane, such as the ones in Leicester. These wards offered specialized care, and posed a direct challenge to the asylum structure, as perceived by the Lunacy Commission in their fifteenth annual report:

In many Workhouses the Lunatic Wards are evidently intended to supersede the County Asylum. The Patients are under the care of experienced attendants. The buildings are specially constructed for the Insane, and include baths, padded rooms, &c. The dietary is on a more liberal scale than that of the ordinary inmates; and the general treatment of the Patients is in some measure assimilated to that adopted in County Asylums, although some of the most important provisions are wanting. The class of Patients found in these wards differs little, if at all, from those met with in County Asylums; and the changes of Patients which take place (and which is shown in some of the Workhouses by a record of the admissions, discharges, and deaths), are as frequent as those met with in ordinary Asylums.⁹

The Lunacy Commission's general expectation in the early years had been that the workhouse would contain chronic cases only. There were indications of the success of workhouses as curative institutions as well, however. Samuel Gaskell, a physician and Lunacy Commissioner, was questioned in this regard with reference to an unnamed workhouse ward in his testimony before the 1859 Select Committee, in which thirty-five of ninety insane inmates had recovered completely, and an additional thirty-five had "derived great benefit". Gaskell accounted for these numbers by speculating a high number of the cases being of delerium tremens, or caused by a temporary and minor domestic irritation, or "slight cases of temporary insanity". The apparently curative effect of the workhouse was explained as follows:

... in all probability they were cases arising from temporary causes, which were readily removed by admitting the patient into any place away from his

⁹Fifteenth Annual Report of the Lunacy Commissioners, PP 1861 (314) xxvii 1 at 47 f.

home, where he would have the benefit of change of scene; he would rapidly recover.¹⁰

The difficulty with this admission was that the distinction from the asylum became blurred: if the issue was removal from home, why removal to the asylum rather than the workhouse?

The comments regarding St. Pancras workhouse in the annual report of the Lunacy Commissions for 1860 provides a further indication of a curative image for the workhouse. In 1860, 423 insane people were admitted, including fifty persons with delerium tremens or other alcohol-related problems, seventy-three with acute mania, and forty melancholics. That same year, there were 449 discharges, being 127 persons who had recovered or were much improved, 147 sent to asylums, forty-six deceased, and 129 other discharges.¹¹

There was even by 1859 some ambiguity as to whether the workhouse might offer better chance of cure than the county asylum. Dr. George Webster, a medical practitioner and member of the board of guardians for Camberwell Union in his testimony to the 1859 Select Committee stated on one hand that curable cases ought to be sent to the asylum, but not entirely consistently that the workhouse offered a better chance of cure for some people:

2318. Is there any other advantage in that [i.e., in the accommodation of incurable and chronic cases in the workhouse] besides the economy? -- Yes, there is this advantage, that they would be with their friends; they can see them more, and they can occasionally mix with the inmates of the house; and indeed, they are more likely to be curable than otherwise by being in a small number than in a large house.

2319. Did you not say that you did not propose to

¹⁰PP 1859 1st sess., (204) iii 75 at q. 1687.

¹¹Fifteenth Annual Report of the Commissioners in Lunacy, PP 1861 (314) xxvii 1 at 48.

retain any curable patients? -- Yes; but now and then even these imbeciles, even the chronic cases are cured and become more probably curable. There are not 20 patients in the lunatic asylum at Wandsworth that are probably curable out of 950.¹²

At the same time, the broad range of lunacy statutes were coming in for criticism. William Tite, whig Member of Parliament for Bath, had been pressing since his election in 1854 for a broad review of lunacy policy in England and Wales. Walpole, the Home Secretary, was hesitant to allow a broad enquiry into that area. Instead he was prepared to promote greater regulation of county asylums by poor law medical officers to protect against wrongful confinements.¹³ While they were to be under the direction of the Lunacy Commissioners, the commissioners saw this plan as a threat to their power and authority.¹⁴ The scepticism of asylum committal perhaps reached its zenith with the remarks of the Bolton board of guardians, who were quoted as saying that long-term detention in asylums was "virtually a species of imprisonment not contemplated or intended by any of the acts relating to lunatics" and that once shown to be incurable in the asylum, "the responsibility regarding future treatment is cast upon the guardians".¹⁵

The poor law itself was applying its own pressures, particularly in the metropolitan area. Funding inequities were creating pressures for unions of unions, jurisdictions which might support poor law asylums, as eventually became the case under the Metropolitan Poor Act 1867.¹⁶

¹²PP 1859 2nd sess (156) vii 501.

¹³Hansard, vol 152 (1859) 405.

¹⁴Testimony of Shaftesbury to Select Committee on Lunatics, PP 1860 (495) xxii 349 at q. 282.

¹⁵J.C. Bucknill, "The Custody of the Insane Poor". 4 Journal of Mental Science (1858) 460 at 463.

¹⁶30 Vict. c. 6. Re establishment of district asylums, v. ss. 5 ff.; re establishment of metropolitan common poor fund, v. ss. 60 ff.

The 1858 report was thus not simply a question of humanitarian reform. It was also a justification by the commission of its own existence in the poor law of lunacy. Workhouse wards became "practically, ... Lunatic Asylums without any of their advantages for treatment, or safeguards against their abuse."¹⁷ The report went on to complained of lack of legal protection of the patients, lack of qualified attendants, lack of medical treatment, prevalence of restraint, inadequacy of diet, filth, lack of exercise space and amusements, and lack of proper records.

Where previously the commissioners had tended to see those who were incurable and who could mix with the general workhouse population as appropriately confined there, a strain of imagery now appeared which focused on the workhouse as a punitive institution, and thus not appropriate for the insane by the very nature of its design. An example of this rhetoric is contained in the following testimony of Shaftesbury to the 1859 Select Committee regarding the maintenance of the chronically insane in workhouses:

No; just consider for a moment the confinement to which they are exposed in the workhouse. Many of the pauper lunatics, who would pine away in a workhouse, would flourish even upon inferior diet, if they were living under the care of their relatives. The discipline of the workhouse was intended for a totally different order of beings; it was intended for able-bodied paupers, and it was contrived for the purpose of making the workhouse disagreeable, and painful to a man who ought to be earning his livelihood; and, therefore, there is every kind of restraint imposed, and the discipline itself is very severe. And then, again, particularly in large towns, look at the airing courts; see how they are divided, and sub-divided into small spaces, with high walls, into which these wretched lunatics who ought to enjoy fresh air and exercise, are allowed to go once or twice in the course of the day, and where they go round and round like so many wild beasts-- the poor creatures

¹⁷See Supplement to the Twelfth Annual Report of the Commissioners in Lunacy, PP 1859 1st sess. (228) ix 1 at 11. This may be compared to the following description of workhouse wards in the supplement to their 1847 annual report, quoted above.

pine under it.¹⁸

Similar comments appeared almost annually in the annual reports of the Lunacy Commissioners throughout the late 1850s and into the 1860s.

The result was a clash with their own local reports, discussed above. Predictably, given the relationships that the Lunacy Commission had been fostering both with the Poor Law Board and with local authorities, the new tone came in for heavy criticism. In this testimony before the 1859 Select Committee, Poor Law Inspector Andrew Doyle cited the local inspection reports of the Lunacy Commission to challenge the criticisms in the 1858 report point by point. He claimed that the report was a "one-sided and scarcely ingenuous representation" of the commissioners' observations regarding individual workhouses.¹⁹ Where the commissioners had implied that excessive mechanical restraint was common in workhouses, Doyle pointed out that in only three of the 600 workhouses visited by the Lunacy Commissioners in preparation of the 1858 report had chaining been found. Restraint was found in only nineteen workhouses, and there were only about three cases where this restraint had not been considered justified.²⁰ He also pointed out that the Lunacy Commissioners claimed to have been vigilant in recommending the removal of all workhouse paupers who were proper to be admitted to the asylum, noting that in the unions he inspected, these totalled twenty of the 628 insane persons in workhouses; in the country as a whole, they were only 153 of the 7,000 insane people contained in workhouses.²¹

Doyle spoke highly of the fairness of the individual workhouse reports compiled by the Lunacy Commissioners, but complained that their 1858 report did not accurately reflect those individual reports:

¹⁸PP 1859 1st sess. (204) iii 75 at q. 676.

¹⁹PP 1859 2nd sess. (156) vii 501 at q. 2079.

²⁰PP 1859 2nd sess. (156) vii 501 at qq. 1871, 2015.

²¹PP 1859 2nd sess. (156) vii 501 at qq. 1708 ff. and qq. 2018 ff.

1983. You do not intend to state that there is any exaggeration in that Report of the 3rd November 1858 [i.e., a report of an individual workhouse visit] which I have read? -- As I stated before, I have not found, so far as I can judge, one word of exaggeration from the beginning to the end of the Reports of the Commissioners. Accidental mistakes I have found. But I have found exaggeration, misstatements, and incorrect quotations of the Reports of the Commissioners in this Supplemental Report. Of the separate Reports of the Commissioners, as to their impartiality and general fairness, I cannot speak too highly. It is impossible that any document can contrast in those qualities more remarkably with them than this Supplemental Report which professes to be founded upon them.²²

As noted, the reports regarding the Leicestershire workhouses were consistent with Doyle's complaints.

Believing the reason for the detentions in the workhouse to be financial, the solution proposed by the Lunacy Commission involved the establishment of a system of new and less expensive asylums for chronic patients. The description of the buildings in the 1856 annual report reflected this context:

Our last Report directed attention to the fact, that in providing, not merely for the harmless and demented, but for the more orderly and convalescing, the most suitable was also the least expensive mode; that they might satisfactorily be placed in buildings more simple in character, and far more economically constructed; ... And whether the mode adopted may be, for the convalescing, by simple and cheery apartments detached from the main building, and with opportunity for association with individuals engaged in industrial pursuits; or, for harmless and chronic cases, by auxiliary rooms near the outbuildings, of plain or ordinary structure, without wide corridors or extensive airing-court walls, and simply warmed and ventilated; it is, we think, become manifest that some changes of structure must be substituted for the system now pursued, if it be

²²PP 1859 2nd sess (156) vii 501 at q. 1983.

desired to retain the present buildings in their efficiency, and to justify the outlay upon them by their employment as really curative establishments. In this way only, as it seems to us, can justice be done to the rate-payer as well as to the pauper.²³

The previous annual report had argued that these buildings should be located near to the patients' workshops, apparently to limit the time necessary to take the inmates to and from their employment.²⁴

Once again, these facilities were never built on a national scale, although the construction of asylums under the 1867 Metropolitan Poor Act can be seen in part as resulting from this strand of argument. This proposed institution had obvious similarities to workhouse wards. Gone was the objective of cure. What was advocated by both the Lunacy Commissioners and the advocates of workhouse wards was inexpensive, decent accommodation, particularly for chronic or long-term cases. The commissioners claim that standards of care would be far superior to that in workhouse wards, but this was never demonstrated particularly convincingly, and was indeed disputed in the evidence of Dr. George Webster, before the Select Committee on Lunatics, cited above.

Predictably, therefore, the Select Committee did not recommend the removal of all insane people from workhouses. Instead, the 1862 act gave the Lunacy Commissioners greater involvement in workhouses. This occurred in part through the authority to remove inmates from workhouses to asylums, a power which they almost never used. In addition, the following provision was enacted:

²³Eleventh Annual Report of the Lunacy Commissioners, PP 1857 2nd Sess. (157) xvi 351 at 21. The call for such institutions is a recurrent theme in the writings of the Lunacy Commission at the end of the 1850's: see also for example, Tenth Annual Report of the Commissioners in Lunacy, PP 1856 (258) xviii 495 at 26 ff.; Supplement to the Twelfth Annual Report of the Commissioners in Lunacy, PP 1859 1st sess. (228) ix 1 at 36; Thirteenth Annual Report of the Commissioners in Lunacy, PP 1859 2nd sess. (204) xiv 529 at 2f.

²⁴Tenth Annual Report of the Commissioners in Lunacy PP 1856 (258) xviii 495 at 26 ff.

8. It shall be lawful for the Visitors of any Asylum and the Guardians of any Parish or Union within the District for which the Asylum has been provided, if they shall see fit, to make Arrangements, subject to the Approval of the Commissioners [in Lunacy] and the President of the Poor Law Board, for the Reception and Care of a limited Number of chronic Lunatics in the Workhouse of the Parish or Union, to be selected by the Superintendent of the Asylum, and certified by him to be fit and proper so to be removed.²⁵

Rather than introduce a third type of institution, therefore, it was expected that transfers would be made to workhouses. The Lunacy Commission's political position was buttressed by its authority over such transfers. A legal opinion of the Law Officers of the Crown in 1867 further consolidated this authority in the workhouse, by holding that persons transferred according to these provisions remained legally in the asylum, not in the workhouse,²⁶ and that position was given statutory force in later that year.²⁷

Local authorities increasingly constructed workhouse wards. Notwithstanding their increased authority over these wards, the Lunacy Commission at times remained highly critical.²⁸ At other times, the commissioners were much more positive, as in the following passage from the 1866 annual report:

On the other hand, there has also been frequent favourable report from houses under quite different conditions, where, as in many of the larger towns throughout the kingdom, the inmates of unsound mind collected in the workhouses have become so very

²⁵25 & 26 Vict., c. 111, s. 8. A clarifying statute the following year made it clear that the workhouse under this scheme could accept paupers from other unions than that in which it was located: 26 & 27 Vict., c. 110, s.2.

²⁶PRO MH 51/760.

²⁷Poor Law Amendment Act 1867, 31 & 32 Vict., c. 106, s. 23.

²⁸v., for example, Nineteenth Annual Report of the Commissioners in Lunacy, PP 1865 (387) xxi 1 at 36 f.

numerous as to require special arrangements for their accommodation; and, the principle being admitted of their claim to a kind of treatment other than that extended to the ordinary pauper, though the law admits of no such claim, the result of the visitation by Members of this Commission, and of the support given by the poor Law board to suggestions made by us which we have ourselves no power to enforce, has been to obtain from the respective Boards of guardians more liberal arrangements, better dietaries, improved airing-courts, in some few instances careful medical records, and proper paid attendants.²⁹

The result, consistent with the commissioners' alliance-building at the local level, was at least occasional co-operation with local unions in the construction of specialized workhouse accommodation, and the transfer of insane people to it. The following case of Mile End Union in 1862 provides an example:

In the case of Mile End Old Town, however, the proposal embraced the sanctioning of an entirely new detached building, constructed expressly for lunatic wards upon ground within the Workhouse precincts, and intended for the reception of 26 Male and 50 Female Patients. Two members of our Board, who inspected the wards, having reported favourably as to their general construction and arrangements, we in this case intimated to the guardians that, before granting our approval of their proposal for the reception therein of chronic Lunatics under the provisions of the 8th section, we should require compliance with certain specified conditions. To this they readily assented.³⁰

The way was once again clear for the commissioners to advocate the transfer of chronic and manageable cases from asylums to the workhouse, to ensure treatment of recent cases in the asylum. This they did, for example, in their 1866 annual report:

²⁹Twenty-First Annual Report of the Commissioners in Lunacy, PP 1867 (366) xviii 201 at 21.

³⁰Seventeenth Annual Report of the Commissioners in Lunacy, PP 1863 xx (331) 437, at 24.

In our last (as in the present) Report we have adverted to the creditable condition of the Lunatic Inmates in some of the larger Workhouses, and we have stated that where such proper provision is made a larger proportion of Imbeciles and chronic cases may, without impropriety, be retained in them, and the pressure for increased accommodation in Asylums be proportionably reduced.³¹

In addition, workhouses continued to care for people without the intervention of the asylum, as they always had. The commissioners had objected to accommodation of the insane in such wards in the 1858 report largely on the basis of inappropriate classification and inappropriate regulatory systems. For chronic cases who could mix freely with others in the house, and particularly for those "capable of being usefully employed" or found to be "trustworthy servants", they had always acknowledged workhouse accommodation as not inappropriate.³² It was those who required special care or facilities who the Lunacy Commissioners insisted ought to be removed to the asylum.

The Lunacy Commissioners even went so far as to press for the regularization of detention of the insane in workhouses. Far from objecting to the 1867 provisions which allowed formal detention of the insane in workhouses, the commissioners' Twenty-Second Annual Report claimed it as one of their successes. The report stated that the amendment was implemented following an approach by the Lunacy Commission to the Poor Law Board suggesting that existing powers required clarification.³³

The workhouse issue was thus not obviously about humanitarian reform. This is not a case, to use Fraser's phrase, of reform "geared to meet real and pressing problems", where "[i]t was the pressure of facts, and unpalatable ones at that, which

³¹PP 1867 (366) xviii 201 at 70.

³²PP 1859 1st sess. (228) ix 1 at 12.

³³PP 1867-8 (332) xxxi 1 at 89.

produced unexpected and (by most) undesired administrative growth."³⁴ Certainly unpalatable facts were cited by the commissioners in their annual and special reports; but the facts became known in a particular political climate, and the resulting reforms owed less to the creation of "that real state of equal opportunity in which meaningful natural liberty could flourish"³⁵ than to bureaucratic accommodation.

³⁴Evolution of the British Welfare State, 2nd ed., (London: Macmillan, 1984) at 117.

³⁵Evolution of the British Welfare State, *supra*, at 122.

BIBLIOGRAPHY

MANUSCRIPT AND ARCHIVAL SOURCES

Public Record Office

MH/9	Register of Paid Officers compiled by the Poor Law Commissioners.
MH/10 92	Index to circulars of the Poor Law Commissioners.
MH/12	Correspondence between Poor Law Commissioners and Boards of Guardians.
MH/15	Index to correspondence between Poor Law Commissioners and Boards of Guardians.
MH/19 168-170	Correspondence between Poor Law Commissioners and Lunacy Commission.
MH/32	Poor Law Commissioners' correspondence
MH/51 747-772	Opinions of Law Officers of the Crown relating to Lunacy.

County Record Office, Leicestershire

DE 3120/1	Burbidge Parish Receipt and Disbursement Book, 1838-74.
DE 3533/1	Leicestershire and Rutland Lunatic Asylum, Land and Building Sub-Committee Minutes, 1858-68.
DE 3533/8	Leicestershire and Rutland Lunatic Asylum, Minute Book of Visitors, 1851-94.
DE 3533/13-14	Leicestershire and Rutland Lunatic Asylum, annual reports, 1849-80.
DE 3533/83-84	Leicestershire and Rutland Lunatic Asylum, Superintendent's Journal and Report Book, 1853- 1870.
DE 3533/145	Leicestershire and Rutland Lunatic Asylum, Admission and Discharge Register, [all classes of patient], 1837 -

1896.

- DE 3533/147 Leicestershire and Rutland Lunatic Asylum, Register of Pauper Patients, 1837-79.
- DE 3533/148 Leicestershire and Rutland Lunatic Asylum, Register of Private Patients, 1847-1906.
- DE 3533/149 Leicestershire and Rutland Lunatic Asylum, Register of Subscribers Sponsoring Charity Admissions, 1836 - 1855.
- DE 3533/150 Leicestershire and Rutland Lunatic Asylum, Register of Discharges, Removals and Deaths of Private Patients, 1855-85.
- DE 3533/175 Leicestershire and Rutland Lunatic Asylum, Letters recommending admission of Patients, 1863 and 1870.
- DE 3533/185-192 Leicestershire and Rutland Lunatic Asylum, Case Books, 1845-1870.
- DE 3533/216 Leicestershire and Rutland Lunatic Asylum, Continuation Case book, 1856 - 1858.
- DE 3533/217 Leicestershire and Rutland Lunatic Asylum, Case book, Charity Patients, 1839 - 1888.
- DE 3533/225-230 Leicestershire and Rutland Lunatic Asylum, Receiving orders, medical certificates, and statements of Relieving Officers, 1851-1870 [incomplete].
- DE 3533/415 Leicestershire and Rutland Lunatic Asylum, "The Charity of the Leicestershire and Rutland Lunatic Asylum", Pamphlet outlining the nature of the charity.
- DG 24/752/2 Leicestershire and Rutland Lunatic Asylum, "Rules for the General Management of the Institution", 1873.
- DG 24/752/3 Leicestershire and Rutland Lunatic Asylum, "Memorandum concerning the Leicestershire and Rutland Lunatic Asylum." Being a report of the Metropolitan Fire Chief, Captain Shaw, dated 23 Feb 1874.
- DG 24/752/4 Leicestershire and Rutland Lunatic Asylum. Report evaluating the value of the Asylum, for purposes of deciding the Charity's share. [1869]

DG 24/752/5	Leicestershire and Rutland Lunatic Asylum, "Report as to Capital" (1869) by Freer and Reeve, Leicester.
DG 24/752/6	Leicestershire and Rutland Lunatic Asylum, Rules of the Asylum, n.d. [c. 1851?]
G-1-57	Ashby-de-la-Zouch Union, correspondence, 1840-43.
G-1-60	Ashby-de-la-Zouch Union, Workhouse Admission and Discharge Registers.
G-1-8a/1	Ashby-de-la-Zouch Union, Board of Guardians Minute books, 1838 - 1864.
G-2-28/1	Barrow Upon Soar Union, Index of Paupers Relieved,
G-8-85/1	Lutterworth Union, Workhouse Master's Report and Journal, 1855-1859.
G-12-23c/1	Leicester Union, Workhouse Form A Returns, 1848-53.
G-12-57b/1	Leicester Union, Correspondence with Poor Law Commissioners, 1843-49.
G-12-57d/1	Leicester Union, Letters from Poor Law Commissioners, 1844-5.
G-12-57d/65	Leicester Union, Local Government orders, 1841 - 71.
G-12-75a/1	Leicester Union, List of Lunatics, Borough of Leicester, 1851 - 96.
G-12-8a/1-13	Leicester Union, Board of Guardians Minute Books, 1836-70.
QS/107/1	Leicestershire Quarter Sessions. Letter Book re Leicestershire and Rutland County Lunatic Asylum. 1854-1875.
QS/84/3/1	Leicestershire Quarter Sessions. Register of Pauper Lunatics in the County and Town of Leicester, 1867-72.
QS/89/83	Order from Poor Law Commissioners regarding Powers and Duties of Justices in the Administration of Poor Relief, dated 6 October 1834. [printed source]

Statutes

- 1324 De Prerogativa Regis, 17 Edw. II stat. I.
- 1597 An Act for Punishment of Rogues, Vagabonds and sturdy Beggars, 39 Eliz. c. 4.
- 1597 An Act for erecting Hospitals, or Abiding and Working Houses for the Poor, 39 Eliz. c. 5.
- 1601 An Act for the Relief of the Poor, 43 Eliz. c. 2.
- 1662 An Act for the better Relief of the Poor of this Kingdom, 13 & 14 Car. II c. 12.
- 1714 An Act for reducing the laws relating to Rogues, Vagabonds, Sturdy Beggars and Vagrants into one Act of Parliament, 12 Anne c. 23.
- 1722 Knatchbull's Act, 9 Geo. I c. 7.
- 1744 An Act to amend and make more effectual the Laws relating to Rogues, Vagabonds, and other idle and disorderly Persons, and to Houses of Correction, 17 George II c. 5.
- 1774 An Act for regulating Madhouses, 14 George III c. 49.
- 1782 Gilbert's Act, 22 Geo. III c. 83.
- 1800 An Act for the safe Custody of Insane Persons charged with Offences, 39 & 40 George III c. 94.
- 1795 An Act to amend so much of an Act, made in the Ninth Year of the Reign of King George I intituled **An Act for amending the Laws relating to the Settlement, Employment, and Relief of the Poor**, as prevents the distributing occasional Relief to Poor Persons in their own Houses, under certain Circumstances and in certain Cases, 36 Geo. III c. 23.
- 1808 An Act for the better Care and Maintenance of Lunatics, being Paupers or Criminals in England, 48 George III c. 96.
- 1811 An Act to amend an Act of the Forty eighth Year of His present Majesty, for the better Care and Maintenance of Lunatics, being Paupers or Criminals, in England, 51 George III c. 79.
- 1815 Act to amend an Act passed in the Forty eighth year of the Reign of His present Majesty entitled **An Act for the better Care and Maintenance of Lunatics, being Paupers or Criminals, in England**, 55 George III c. 46.

- 1816 An Act to amend an Act passed in the Thirty ninth and Fortieth Year of the Reign of His present Majesty for the safe Custody of Insane Persons charged with Offences, 56 George III c. 117.
- 1819 An Act for making Provision for the better Care of Pauper Lunatics in England, 59 George III c. 127.
- 1824 An Act to amend several Acts passed for the better Care and Maintenance of Lunatics, being Paupers or Criminals, in England, 5 George IV c. 70.
- 1828 An Act to amend the Laws for the Erection and Regulation of County Lunatic Asylums, and more effectually to provide for the Care and Maintenance of Pauper and Criminal Lunatics, in England, 9 George IV c. 40.
- 1828 An Act to regulate the Care and Treatment of Insane Persons in England, 9 George IV c. 41.
- 1829 An Act to explain, amend, and alter the Act of the Ninth Year of the Reign of His present Majesty, for regulating the Care and Treatment of Insane Persons in England, 10 George IV c. 18.
- 1830 An Act for consolidating and amending the Law relating to Property belonging to Infants, Femes Coverts, Idiots, Lunatics, and Persons of Unsound Mind, 11 George IV & 1 William IV c. 65.
- 1832 An Act for regulating for Three Years, and from thence until the End of the then next Session of Parliament, the Care and Treatment of Insane Persons in England, 2 & 3 William IV c. 107.
- 1833 An Act to amend an Act of the Second and Third Year of His present Majesty, for regulating the Care and Treatment of Insane Persons in England, 3 & 4 William IV c. 64.
- 1834 An Act for the Amendment and better Administration of the Laws relating to the Poor in England and Wales, 4 & 5 William IV c. 76.
- 1835 An Act to Continue for Three Years, and from thence to the End of the then next Session of Parliament, Two Acts of the Second and Third and the Third and Fourth Year of His present Majesty, relating to the Care and Treatment of Insane Persons in England, 5 & 6 William IV c. 22.
- 1838 An Act to continue for Three Years, and from thence to the End of the then next Session of Parliament, Two Acts relating to the Care and Treatment of Insane Persons in England, 1 & 2 Vict. c. 73.

- 1838 Act to Repeal 39 George III c. 94, 1 Vict. c. 14.
- 1840 An Act for making further Provision for the Confinement and Maintenance of Insane Prisoners, 3 & 4 Vict. c. 54.
- 1841 An Act to continue for Three Years, and from thence to the End of the then next Session of Parliament, Two Acts relating to the Care and Treatment of Insane Persons in England, 5 Vict. c. 4.
- 1842 An Act to amend and continue for Three Years, and from thence to the End of the next Session of Parliament, the Laws relating to Houses licensed by the Metropolitan Commissioners and Justices of the Peace for the Reception of Insane Persons, and for the Inspection of County Asylums and Public Hospitals for the Reception of Insane Persons, 5 & 6 Vict. c. 87.
- 1844 An Act for the further Amendment of the Laws relating to the Poor in England, 7 & 8 Vict. c. 101.
- 1845 An Act for the Regulation of the Care and Treatment of Lunatics, 8 & 9 Vict. c. 100.
- 1845 An Act to amend the Laws for the Provision and Regulation of Lunatic Asylums for Counties and Boroughs, and for the Maintenance and Care of Pauper Lunatics, in England, 8 & 9 Vict. c. 126.
- 1846 An Act to amend the Law concerning Lunatic Asylums and the Care of Pauper Lunatics in England, 9 & 10 Vict. c. 84
- 1847 An Act for the Amendment of the Laws relating to the Provision and Regulation of Lunatic Asylums for Counties and Boroughs of England, 10 & 11 Vict. c. 43.
- 1849 An Act to continue an Act of the last Session of Parliament, for charging the Maintenance of certain Poor Persons in Unions upon the Common Fund; and to make certain Amendments in the Laws for the Relief of the Poor, 12 & 13 Vict. c. 103.
- 1850 An Act to continue two Acts passed in the twelfth and thirteenth years of the Reign of Her Majesty, for charging the Maintenance of certain Poor Persons in Unions in England and Wales upon the Common Fund; and to make certain Amendments in the Laws for the Relief of the Poor, 13 & 14 Vict. c. 101.
- 1853 An Act to amend an Act passed in the Ninth Year of Her Majesty, "for the Regulation of the Care and Treatment of Lunatics", 16 & 17 Vict. c. 96.

- 1853 The Lunatic Asylums Act, 1853, 16 & 17 Vict. c. 97.
- 1855 An Act to amend the Lunatic Asylums Act, 1853, and the Acts passed in the Ninth and Seventeenth Years of Her Majesty, for the Regulation of the Care and Treatment of Lunatics, 18 & 19 Vict. c. 105.
- 1856 An Act to amend the Lunatic Asylums Act, 1853, 19 & 20 Vict. c. 87.
- 1858 The Medical Act, 21 & 22 Vict. c. 90.
- 1860 An Act to make better Provision for the Custody and Care of Criminal Lunatics, 23 & 24 Vict. c. 75.
- 1861 An Act to amend the Laws regarding the Removal of the Poor and the Contribution of Parishes to the Common Fund in Unions, 24 & 25 Vict. c. 55.
- 1862 An Act to amend the Law relating to Lunatics, 25 & 26 Vict. c. 111.
- 1863 An Act to amend the Lunacy Acts in relation to the building of Asylums for Pauper Lunatics, 26 & 27 Vict. c. 110.
- 1865 An Act to provide for the better Distribution of the Charge for the Relief of the Poor in Unions, 28 & 29 Vict. c. 79.
- 1865 An Act to explain and amend "The Lunatic Asylum Act, 1853," and "The Lunacy Act Amendment Act, 1862", with reference to Counties of Towns which have Courts of Quarter Sessions, but no Recorder, 28 & 29 Vict. c. 80.
- 1867 The Metropolitan Poor Act, 1867, 30 Vict. c. 6.
- 1867 An Act to make the Poor Law Board permanent, and to provide sundry Amendments in the Laws for the Relief of the Poor, 30 & 31 Vict. c. 106.
- 1868 An Act to make further Amendments in the Laws for the Relief of the Poor in England and Wales, 31 & 32 Vict. c. 122.
- 1884 Criminal Lunatics Act, 1884, 47 & 48 Vict. c. 64.
- 1885 Lunacy Acts Amendment Act, 1885, 48 & 49 Vict. c. 52.
- 1886 Idiots Act, 1886, 49 Vict. c. 25.
- 1889 Lunacy Acts Amendment Act, 1889, 52 & 53 Vict. c. 41.
- 1890 Lunacy Act, 1890, 53 Vict. c. 5.

1891 Lunacy Act, 1891, 54 & 55 Vict. c. 65.

PARLIAMENTARY PAPERS

Report of the Select Committee on the State of Criminal and Pauper Lunatics and the Laws Relating thereto, 1807. PP 1807 (39) ii 69.

Report together with the Minutes of Evidence taken before the Select Committee appointed to consider the provision being made for the better regulation of Madhouses in England, 1815. PP 1814-15 (296) iv 801.

Return of the Number of Houses in Each County ... Licenced for the reception of Lunatics ... 1819. PP 1819 (271) xvii 131.

A Return of the Number of Lunatics confined in the Different Gaols, Hospitals and Lunatic Asylums. PP 1819 (272) xvii 131.

Return of Lunatic Asylums erected under the provisions of 48 George III c. 96, 1824. PP 1824 (329) xviii 171.

Report of the Metropolitan Commissioners in Lunacy, 1830. PP 1830 (541) xxx 275.

Returns ... specifying the number of Lunatics and idiots ... confined and in regular asylums and of those not confined, 1830. PP 1830 (542) xxx 283.

Report from His Majesty's Commissioners for Inquiring into the Administration and Practical Consequences of the Poor Laws. PP 1834 (44) xxvii 1.

First Annual Report of the Poor Law Commission for England and Wales. PP 1835 (500) xxxv 107.

Second Annual Report of the Poor Law Commissioners. PP 1836 (595) xxix 1

Third Annual Report of the Poor Law Commissioners. PP 1837 (546) xxxi 127.

Fourth Annual Report of the Poor Law Commissioners. PP 1837-8 [147] xxviii 145.

Fifth Annual Report of the Poor Law Commissioners. PP 1839 (239) xx 1.

Sixth Annual Report of the Poor Law Commissioners. PP 1840 [245] xvii 397.

Report with Table showing the Relief afforded to Lunatics and Idiots by the Unions and Parishes comprised in the Metropolitan District PP 1840 (394) xxxix 305.

Seventh Annual Report of the Poor Law Commissioners. PP 1841 [327] xi 291.

Annual Reports of the Metropolitan Commissioners in Lunacy, 1835-1842 inclusive. PP 1841 2nd sess. (56) vi 235.

Eighth Annual Report of the Poor Law Commissioners. PP 1842 [359] xix 1.

Ninth Annual Report of the Poor Law Commissioners. PP 1843 [468] xxi 1

Report of the Metropolitan Commissioners in Lunacy. PP [HL] 1844 xxvi 1.

Tenth Annual Report of the Poor Law Commissioners. PP 1844 [560] xix 9.

Eleventh Annual Report of the Poor Law Commissioners. PP 1845 [624] xxvii 247.

Return of payments to Lunacy Commissioners PP 1846 (48) xxxiii 409.

Returns re. county lunatic asylums. PP 1846 (90) xxxiii 409

Return of Lunacy Commissioners, showing number of visits made PP 1846 (104) xxxiii 407.

Twelfth Annual Report of the Poor Law Commissioners. PP 1846 [704] xix 1.

Report of the Poor Law Commissioners upon the Relief of the Poor in the Parishes of St. Marylebone and St. Pancras, with Appendix. PP 1847 [802] xxviii 275.

Thirteenth Annual Report of the Poor Law Commissioners. PP 1847 [816] xviii 1.

First Annual Report of the Lunacy Commissioners. PP 1847 (471) xxxiii 339.

Second Annual Report of the Lunacy Commissioners. PP 1847-8 (34) xxvi 225.

Supplementary Report to the Home Secretary. PP 1847 [858] in octavo PP 1847-48 xxxii 371.

Fourteenth Report of the Poor Law Commissioners. PP 1847-8 [960] xxxiii 1.

Copy of Letter from the Commissioners in Lunacy, with reference to their Duties and Practice, under the act 8 & 9 Vict. c. 100. PP 1849 (620) xlvi 381.

Third Annual Report of the Commissioners in Lunacy. PP 1849 [1028] xxii 381.

Report of the Commisssoners for Administering the Laws For Relief of the Poor in England [and Wales]. PP 1849 [1024] xxv 1.

Fourth Annual Report of the Commissioners in Lunacy. PP 1850 (291) xxiii 363.

Fifth Report of the Commissioners in Lunacy. PP 1850 (735) xxiii 393.

Second Annual Report of the Poor Law Board. PP 1850 [1142] xxvii 1.

Sixth Annual Report of the Commissioners in Lunacy. PP 1851 (668) xxiii 353.

Third Annual Report of the Poor Law Board. PP 1851 [1340] xxvi 1.

Fourth Annual Report of the Poor Law Board. PP 1852 [1461] xxiii 1.

Seventh Annual Report of the Lunacy Commission. PP 1852/3 xlix 1.

Fifth Annual Report of the Poor Law Board. PP 1852-3 [1625] l 1.

Eighth Annual Report of the Commissioners in Lunacy. PP 1854 (339) xxix 1.

Sixth Annual Report of the Poor Law Board. PP 1854 [1797] xxix 333.

Ninth Annual Report of the Lunacy Commissioners. PP 1854-5 (240) xvii 533.

Seventh Annual Report of the Poor Law Board. PP 1854-5 [1921] xxiv 1.

Tenth Annual Report of the Commissioners in Lunacy. PP 1856 (258) xviii 495.

Letter from Guardians of St. Marylebone answering the Report of the Commissioners in Lunacy in regard to the Treatment of Pauper Lunatics in Marylebone Workhouse. PP 1857 2nd (111) xxxii (2) 533.

Eleventh Annual Report of the Lunacy Commissioners. PP 1857. 2nd Sess. (157) xvi 351.

Twelfth Annual Report of the Lunacy Commissioners. PP 1857-8 (340) xxiii 583.

Tenth Annual Report of the Poor Law Board. PP 1857-8 [2402] xxviii 1.

Report of the Select Committee on Lunatics; Together with the Proceedings of the Committee, Minutes of Evidence, Appendix, and Index. PP 1859 1st Session (204) iii 75.

Supplement to the Twelfth Annual Report of the Commissioners in Lunacy. PP 1859 1st sess. (228) ix 1.

Eleventh Annual Report of the Poor Law Board. PP 1859 1st sess. [2500] ix 741.

Report from the Select Committee on Lunatics; Together with the Proceedings of the Committee, Minutes of Evidence, Appendix, and Index. PP 1859 2nd sess (156) vii 501.

Thirteenth Annual Report of the Lunacy Commissioners. PP 1859 2d sess (204) xiv 529.

Report of the Select Committee on Lunatics, together with the Proceedings of the Committee, Minutes of Evidence, and Appendix. PP 1860 (495) xxii 349.

Fourteenth Annual Report of the Lunacy Commissioners. PP 1860 (338) xxxiv 231.

Twelfth Annual Report of the Poor Law Board. 1859-60. PP 1860 [2675] xxxvii 1.

Fifteenth Annual Report of the Lunacy Commissioners. PP 1861 (314) xxvii 1.

Thirteenth Annual Report of the Poor Law Board. PP 1861 [2820] xxviii 1.

Second Report of the Select Committee on Poor Relief, together with the minutes of evidence and appendix. PP 1862 x (321) 183.

Sixteenth Report of the Commissioners in Lunacy. PP 1862 (417) xxiii 1.

Return stating the Number of Unions in England and Wales in which the sane are not intermixed with the Insane, and where Lunatic Wards have been established; the number of Lunatics in each separate ward; together with the Number of Lunatics received into all Union Workhouses from January 1861 to January 1862. PP 1863 (477) lii 85.

Fourteenth Annual Report of the Poor Law Board. PP 1862 [3037] xxiv 1.

Seventeenth Report of the Commissioners in Lunacy. PP 1863 xx (331) 437.

Fifteenth Annual Report of the poor Law Board. PP 1863 [3197] xxii 1.

Eighteenth Report of the Commissioners in Lunacy. PP 1864 (389) xxiii 1.

Sixteenth Annual Report of the Poor Law Board. PP 1864 [3379] xxv 1.

Nineteenth Report of the Commissioners in Lunacy. PP 1865 (387) xxi 1.

Seventeenth Annual Report of the Poor Law Board. PP 1865 [3549] xxii 1.

Twentieth Report of the Commissioners in Lunacy. PP 1866 (317) xxxii 1.

Eighteenth Annual Report of the Poor Law Board. PP 1866 [3700] xxxv 1.

Twenty-First Report of the Commissioners in Lunacy. PP 1867 (366) xviii 201.

Nineteenth Annual Report of the Poor law Board. PP 1867 [3870] xxxiv 1.

Twenty-Second Report of the Commissioners in Lunacy. PP 1867-8 (332) xxxi 1.

Twentieth Annual Report of the Poor Law Board. PP 1867-8 [4039] xxxiii 1.

Twenty-third Report of the Commissioners in Lunacy. PP 1868-9 (321) xxvii 1.

Twenty-first Annual Report of the Poor Law Board. PP 1868-9 [4197] xxviii 1.

Twenty-fourth Report of the Commissioners in Lunacy. PP 1870 (340) xxxiv 1.

Twenty-second Annual Report of the Poor Law Board. PP 1870 [123] xxxv 1.

Twenty-fifth Annual Report of the Commissioners in Lunacy. PP 1871 (351) xxvi 1.

Twenty-third Annual Report of the Poor Law Board. PP 1871 [396] xxvii 1.

Ninth Annual Report of the Local Government Board. PP 1880 [2681] xxvi 1.

Thirty-sixth Annual Report of the Commissioners in Lunacy. PP 1882 (357) xxxii 1.

Twentieth Annual Report of the Local Government Board. PP 1890-1 [6460] xxxiii 1.

Forty-fifth Annual Report of the Commissioners in Lunacy. PP 1890-1 (286) xxxvi 1.

Report of the Royal Commission on the Care and Control of the Feeble-Minded. PP 1908 [4202] xxxix 159.

Report of the Royal Commission on the Poor Laws and Relief of Distress. PP 1909 [4499] xxxvii 1.

CASES

Anderton v. Burrows (1830), 4 Car. & P. 210 (N.P.).

Brookshaw v. Hopkins (1772-4?), Lofft 240 (K.B.).

Budd v. Foulks (1813), 3 Camp. 404 (N.P.).

Child, Ex Parte (1854), 15 C.B. 238 (Q.B.).

Eliot v. Allen (1845), 1 C.B. 18, 14 L.J. (N.S.) C.P. 136.

Fell, In re (1845), 3 Dowl & L. 373, 15 L.J. (N.S.) M.C. (Q.B.).

Fletcher v. Fletcher (1859), 1 E & E 420, S.C., 28 L.J., N.S., Q.B. 134, 5 Jur N.S. 678, 32 L.T. 255, 7 W.R. 187 (Q.B.).

Hadfield's Case (1800), 27 Howell's St. Tr. 1281.

Hall v. Semple (1862), 3 F & F 337 (Q.B.).

Norris v. Seed (1849), 3 Exch. R. 782; 18 L.J., N.S., Exch. 300, 13 Jur. 830.

Prodgers v. Phrazier (1681), 3 Mod. 43, 1 Vern 12, 1 Equ. Cas. Abr. 277, and Hale, P.C., p. 29 (Ch.)

R. v. Hatfield Peverel (1849), 18 L.J.R. (N.S.) M.C. 225; 14 Q.B. 298.

R. v. Clarke (1762), 3 Burr. 1362 (K.B.).

R. v. Ellis (1844), 1 N.S.C. 342, 8 Jur. 1028.

R. v. Harris (1867), 10 Cox C.C. 541 (Central Criminal Court).

R. v. Barnsley (1849), 18 L.J.R. (N.S.) M.C. 170 (Q.B.).

R v. Inhabitants of Minster (1850), 14 Q.B. 349.

R. v. Inhabitants of Rhyddlan (1850), 14 Q.B. 327.

R. v. Inhabitants of St. Nicholas, Leicester (1835), 4 L.J. (N.S.) M.C. 97 (K.B.).

R. v. Jones (1831), 2 B. & Ad. 611 (K.B.).

R. v. Justices of Cornwall (1845), 14 L.J. (N.S.) M.C. 46 (Q.B.).

R. v. Pinder; In re Greenwood (1855), 24 L.J. (N.S.) Q.B. 148.

R. v. Shaw (1868), 11 Cox C.C., 18 L.T. (N.S.) 583, 37 L.J.R. (N.S.) M.C. 112, L.R. 1 C.C. 145.

R. v. Whitfield (1885), 15 Q.B. 122 (C.A.).

Shuttleworth, Re (1846), 9 Q.B. 651, 16 L.J., N.S., M.C. 18 .

OTHER SOURCES

Adams, John. "Caring for the Casual Poor". 17(1) Oral History (1989) 29.

Allderidge, Patricia. "Bedlam: fact or fantasy". In The Anatomy of Madness. Vol. II. Ed. William F. Bynum et al. London: Tavistock, 1985, at 17.

Andrews, Jonathan. "The Glasgow Royal's case notes: what they do and don't convey about the patient's experience of insanity in the nineteenth century." Paper delivered conference on the History of Case Histories. Stuttgart: Wellcome Unit for the History of Medicine (Glasgow) and Institut fur Geschichte der Medizin der Robert Bosch Stiftung, 23-25 September 1991.

Anon. [John Bucknill?]. "Tenth Report of the Commissioners in Lunacy to the Lord Chancellor". 3 Journal of Mental Science (1857) 19.

Anon. [John Bucknill?]. "The New Commissioners in Lunacy". 4 Journal of Mental Science (1858) 127.

Apfel, William, and Peter Dunkley. "English Rural Society and the New Poor Law: Bedfordshire, 1834 - 47". 10 Social History (1985) 37.

Arieno, Marlene A. Victorian Lunatics: A Social Epidemiology of Mental Illness in Mid-Nineteenth-Century England. Selinsgrove: Susquehanna University Press and London and Toronto: Associated University Presses, 1989.

Arlidge, J.T. "On the Construction of Public Lunatic Asylums". 4 Journal of Mental Science (1858) 188.

Arlidge, John T. On the State of Lunacy and the Legal Provision for the Insane, with Observations on the Construction and Organization of Asylums. London: John Churchill, 1859.

Arthurs, Harry W. 'Without the Law': Administrative Justice and Legal Pluralism in Nineteenth-Century England. Toronto: U. of T. Press, 1985.

Ashforth, David. "The Urban Poor Law". In Derek Fraser, ed., The New Poor Law in the Nineteenth Century. London: Macmillan, 1976, at pp. 128 ff.

Bahmueller, Charles F. The National Charity Company: Jeremy Bentham's Silent Revolution. Berkeley: University of California Press, 1981.

Bartrip, P.W.J. "State Intervention in Mid-Nineteenth Century Britain: Fact or Fiction". 23 Journal of British Studies (1983) 63.

Bentham, Jeremy. Outline of a Work entitled Pauper Management Improved. 1798; rpt. in The Collected Works of Jeremy Bentham. Vol. VIII. Ed. John Bowring. Edinburgh: William Tait, 1843.

Berrios, German E., and Hugh Freeman, eds. 150 Years of British Psychiatry, 1841 - 1991. London: Gaskell, 1991. at ix - xv.

Bittner, Egon. See Garfinkel.

Blaug, Mark. "The Myth of the Old Poor Law and the Making of the New". 23 Journal of Economic History (1963) 151.

Blaug, Mark. "The Poor Law Report Re-Examined". 23 Journal of Economic History (1964) 229.

Bott, E. The Laws Relating to the Poor. 6th ed, ed. John T. Pratt. 2 vols. London: Butterworth, 1827.

Brock, William. See Orme and Brock.

Brook, Matthew. A New Abridgement of the Law. 7th ed. 8 vols. Ed. H. Gwillim (vols. 2-4) and C. Dodd (vols. 1, 5-8). London: Strachan, 1828.

Brook, Robert. La Grande Abridgement. 2 vols. n.p., 1573.

Brundage, Anthony. England's "Prussian Minister": Edwin Chadwick and the Politics of Government Growth, 1832 - 1854. London and University Park: Pennsylvania State University Press, 1988.

Brundage, Anthony, David Eastwood, and Peter Mandler, "The Making of the New Poor Law Redivivus". 127 Past and Present (1989) 183.

Buck, John. Letter. 4 Journal of Mental Science (1858) 309.

Bucknill, J.C. "On Medical Certificates of Insanity". 7 Journal of Mental Science (1861) 79.

Bucknill, J.C. "The Custody of the Insane Poor". 4 Journal of Mental Science (1858) 460.

Bucknill, J.C. "The Medical Certificates of Admission Papers". 4 Journal of Mental Science (1858) 312.

Bucknill, John Charles. "The Diagnosis of Insanity". 2 Journal of Mental Science (1856) 229.

Bucknill, John. See also anon.

Burn, W.L. The Age of Equipoise: A Study of the Mid-Victorian Generation. 1964; rpt. New York: Norton, 1965.

Busfield, Joan. Managing Madness: Changing Ideas and Practice. London: Hutchinson, 1986.

Butterfield, Herbert. The Whig Interpretation of History. 1931; rpt. Harmondsworth: Penguin, 1973.

Bynum, William F. "Rationales for Therapy in British Psychiatry, 1780-1835". In Madhouses, Mad-Doctors and Madmen: The Social History of Psychiatry in the Victorian Era. Ed. Andrew Scull. Philadelphia: University of Pennsylvania Press, 1981.

Bynum, William F., Roy Porter, and Michael Shepherd, eds. The Anatomy of Madness: Essays in the History of Psychiatry. 3 vols. London: Tavistock, 1985 (vols. 1-2), 1988 (vol. 3).

Campos Boralevi, Lea. Bentham and the Oppressed. Berlin and New York: de

Gruyter, 1984.

Castel, Robert. "Moral Treatment: Mental Therapy and Social Control in the Nineteenth Century". Trans. Peter Miller. In Social Control and the State: Historical and Comparative Essays. Ed. Stanley Cohen and Andrew Scull. 1983; rpt. Oxford: Blackwell, 1985.

Castel, Robert. The Regulation of Madness: The Origins of Incarceration in France. Trans. W.D. Halls. Cambridge: Polity, 1988.

Checkland, S.G., and E.O.A. Checkland, eds. The Poor Law Report of 1834. 1834: rpt. Harmondsworth: Penguin Books, 1974.

Cohen, Stanley and Andrew Scull, eds., Social Control and the State: Historical and Comparative Essays. 1983; rpt. Oxford: Blackwell, 1985.

Comyn, John. Digest of the Laws of England. 5th ed. 8 vols. Ed. Anthony Hammond. London: Strahan, 1822.

Cornish, W.R., and G. de N. Clark. Law and Society in England 1750-1950. London: Sweet and Maxwell, 1989.

Corrigan, Philip, and Derek Sayer. The Great Arch: English State Formation as Cultural Revolution. Oxford: Basil Blackwell, 1985.

Crowther, M.A. The Workhouse System, 1834 - 1929: The History of an English Social Institution. 1981: rpt. London: Methuen, 1983.

Dean, Mitchell. The Constitution of Poverty: Toward a genealogy of liberal governance. London: Routledge, 1991.

Dicey, A.V. Lectures on the Relation between Law and Public Opinion in England during the Nineteenth Century. London: Macmillan, 1905.

Digby, Anne. "The Labour Market and the Continuity of Social Policy after 1834: The Case of the Eastern Counties". 28 Economic History Review 2nd ser. (1975) 69.

Digby, Anne. Madness, Morality and Medicine: A Study of the York Retreat, 1796-1914. Cambridge: Cambridge University Press, 1985.

Digby, Anne. "Moral treatment at the Retreat, 1796-1846". In The Anatomy of Madness. Vol. II. Ed. William F. Bynum et al. London: Tavistock, 1985, at 52.

Digby, Anne. Pauper Palaces. London: Routledge and Kegan Paul, 1978.

Digby, Anne. The Poor Law in Nineteenth-Century England and Wales. London: The Historical Association, 1982.

Digby, Anne. "The Rural Poor Law". In Derek Fraser, ed., The New Poor Law in

the Nineteenth Century. London: Macmillan, 1976, at 149.

Dinwiddy, J.R. "Early-Nineteenth-Century Reactions to Benthamism". 34 Transactions of the Royal Historical Society 5th Series (1984) 47.

Dolan, Thomas M. Some Remarks on Workhouse Hospitals with Illustrative Cases. Leeds: Charles Goodall, 1879.

Donajgrodzki, A.P., ed. Social Control in Nineteenth Century Britain. London: Croom Helm, 1977.

Donajgrodzki, A.P. "'Social Police' and the Bureaucratic Elite: A Vision of Order in the Age of Reform". In Social Control in Nineteenth Century Britain, ed. A.P. Donajgrodzki. London: Croom Helm, 1977, at 51.

Donzelot, Jacques. The Policing of Families: Welfare versus the State. Forward by Gilles Deleuze. Trans. from French by Robert Hurley. London: Hutchinson, 1980; New York: Random House, 1979.

Driver, Felix. Power and Pauperism: The Workhouse system, 1834-1884. Cambridge: Cambridge University Press, 1993.

Duke, Francis. "Pauper Education". In The New Poor Law in the Nineteenth Century. Ed. Derek Fraser. London: Macmillan, 1976, at 67.

Dunkley, Peter. "Whigs and Paupers: The Reform of the English Poor Laws, 1830 - 1834". 20 Journal of British Studies (1980-1) 124.

Dunkley, Peter. See also Apfel.

Eastwood, David. See also Brundage, above.

Fee, Elizabeth. "Psychology, Sexuality and Social Control in Victorian England". 58 Social Science Quarterly (1978) 632.

Fessler, A. "The Management of lunacy in seventeenth century England: an investigation of Quarter-Sessions records". 49 Proceedings of the Royal Society of Medicine (1956) 901.

Fido, Judith. "The Charity Organisation Society and Social Casework in London 1869-1900". In Social Control in Nineteenth Century Britain, ed. A.P. Donajgrodzki. London: Croom Helm, 1977, at 207.

Findlayson, Geoffrey B.A.M. The Seventh Earl of Shaftesbury, 1801-1885. London: Eyre Methuen, 1981.

Flinn, M.W. "Medical Services under the New Poor Law". In The New Poor Law in the Nineteenth Century. Ed. Derek Fraser. London: Macmillan, 1976, at 45.

Foucault, Michel. Discipline and Punish: The Birth of the Prison. Trans Alan Sheridan. New York: Random House, 1977.

Foucault, Michel. The History of Sexuality. Volume I: An Introduction. Trans. Robert Hurley. 1978; rpt. New York: Random House, 1980.

Foucault, Michel. Madness and Civilization: A History of Insanity in the Age of Reason. Trans. Richard Howard. 1965; rpt. New York: Vantage Books, 1973.

Foucault, Michel. Politics, Philosophy, Culture: Interviews and other Writings, 1977-1984. Ed. Lawrence Kritzman. New York: Routledge, 1988.

Fraser, Derek. The Evolution of the British Welfare State: A History of Social Policy since the Industrial Revolution. 2nd ed. Basingstoke: Macmillan, 1984.

Fraser, Derek, ed. The New Poor Law in the Nineteenth Century. London: MacMillan, 1976.

Fraser, Derek. "The Poor Law as a Political Institution". In The New Poor Law in the Nineteenth Century. Ed. Derek Fraser. London: Macmillan, 1976, at 111.

Fry, Danby. The Lunacy Acts. 2nd ed. London: Knight and Co., 1877.

Garfinkel, Harold, and Egon Bittner. "'Good' organizational reasons for 'bad' clinical records". In Harold Garfinkel. Studied in Ethnomethodology. 1967; rpt. Cambridge: Polity, 1984, at 186.

Garland, David. Punishment and Welfare: A History of Penal Strategies. Aldershot: Gower, 1985.

Glen, W. Cunningham, ed. Archbold's Poor Law. 12th ed. London: Shaw and Sons, 1843.

Glen, William Cunningham. The Consolidated and other Orders of the Poor Law Commissioners and the Poor Law Board. 4th ed. London: Butterworths, 1859.

Glen, William Cunningham, ed. Shaw's Union Officers' and Local Boards of Health Manual for 1858. London: Shaw and Sons, 1858.

Greaves, George. "Homes for the Working Class". Paper delivered to the Manchester Statistical Society, 8 Apr 1861. Manchester: n.p. 1861.

Green, Bryan. Knowing the Poor: A Case-study in Textual Reality Construction. London: Routledge & Kegan Paul, 1983.

Grob, Gerald. "Marxian analysis and mental illness". 1 History of Psychiatry (1990), 223.

Harrison, Brian. "State Intervention and Moral Reform in nineteenth-century

England". In Pressure from Without in Early Victorian England. Ed. Patricia Hollis. London: Edward Arnold, 1974, at 289 .

Hart, Jenifer. "Religion and Social Control in the Mid-Nineteenth Century". In Social Control in Nineteenth Century Britain. Ed. A.P. Donajgradski. London: Croom Helm, 1977, at 108.

Hawkins, James. Are the Beneficent Uses of Public Institutions adequately Supported by their Present Organisation? London: Longmans, Green, 1872.

Hawkins, James. On the Desirability of National Education for the Deaf and Dumb Poor. London: Longmans, Green and Co, 1868.

Hay, Douglas. "Property, Authority and the Criminal Law". In Douglas Hay et al. Albion's Fatal Tree. 1975; rpt. London: Penguin, 1977, at 17.

Henriques, Ursula. Before the Welfare State: Social administration in early industrial Britain. London: Longman, 1979.

Henriques, Ursula. "The Rise and Decline of the Separate System of Prison Discipline". 54 Past and Present (1972) 61.

Hervey, Nicholas. "Advocacy or Folly: The Alleged Lunatics' Friend Society, 1845-63". 30 Medical History (1986) 245.

Hervey, Nicholas Bethell. "The Lunacy Commission 1845 - 60, with Special Reference to the Implementation of Policy in Kent and Surrey." Diss. University of Bristol 1987.

Hervey, Nicholas. "A slavish bowing down: the Lunacy Commission and the psychiatric profession 1845-60". In The Anatomy of Madness. Vol. II. Ed. William F. Bynum et al. London: Tavistock, 1985, at 98.

Hilton, Boyd. The Age of Atonement: The Influence of Evangelicalism on Social and Economic Thought, 1795-1865. Oxford: Clarendon, 1988.

Himmelfarb, Gertrude. The Idea of Poverty: England in the Early Industrial Age. London: Faber, 1984.

Hodgkinson, Ruth G. The Origins of the National Health Service: Medical Services of the New Poor Law, 1834 - 1871. London: Wellcome Historical Medical Library, 1967.

Hodgkinson, Ruth. "Provision for Pauper Lunatics, 1834-71". 10 Medical History (1966) 138.

Hollis, Patricia, ed. Pressure from Without in Early Victorian England. London: Edward Arnold, 1974.

Hunter, Richard, and Ida Macalpine. Three Hundred Years of Psychiatry, 1535-1860. 1963; rpt. Hartsdale, New York: Carlisle, 1982.

Ignatieff, Michael. A Just Measure of Pain: The Penitentiary in the Industrial Revolution, 1750-1850. 1978; rpt. London: Penguin, 1989.

Ignatieff, Michael. "State, Civil Society and Total Institutions: A Critique of Recent Histories of Punishment". In Social Control and the State: Historical and Comparative Essays. Ed. Stanley Cohen and Andrew Scull. 1983; rpt. Oxford: Blackwell, 1985.

Ignatieff, Michael. "Total Institutions and Working Classes: A Review Essay". 15 History Workshop Journal (1983) 167.

Ingleby, David. "Mental Health and Social Order". In Social Control and the State: Historical and Comparative Essays. Ed. Stanley Cohen and Andrew Scull. 1983; rpt. Oxford: Blackwell, 1985.

Jones, Gareth Stedman. "Class Expression versus Social Control? A Critique of Recent Trends in the Social History of Leisure." In Social Control and the State: Historical and Comparative Essays. Ed. Stanley Cohen and Andrew Scull. 1983; rpt. Oxford: Blackwell, 1985.

Jones, Gareth Stedman. Outcast London: A Study of the Relationship between Classes in Victorian Society. Oxford: Clarendon, 1971.

Jones, Kathleen. "The Culture of the mental hospital". In 150 Years of British Psychiatry. Ed. German Berrios and Hugh Freeman. London: Gaskell, 1991, at 17.

Jones, Kathleen. "Law and mental health: sticks or carrots". In 150 Years of British Psychiatry 1841-1991. Ed. German Berrios and Hugh Freeman. London: Gaskell, 1991, at 89.

Jones, Kathleen. Lunacy, Law, and Conscience, 1744-1845: The Social History of the Care of the Insane. London: Routledge & Kegan Paul, 1955.

Jones, Kathleen. Mental Health and Social Policy 1845-1955. London: Routledge and Kegan Paul, 1960.

Lieberman, David. "From Bentham to Benthamism". 28 Historical Journal (1985) 199.

Lowe, Louisa. The Bastilles of England; or the Lunacy Laws at Work. London: Crookenden, 1883.

Lubenow, William C. The Politics of Government Growth: Early Victorian Attitudes toward State Intervention, 1833-1848. Newton Abbot: David & Charles, 1971.

Lumley, William Golden. Manuals of the Duties of Poor Law Officers: Master and

- Matron of the Workhouse. London: Knight, 1869.
- Lumley, William Golden. Manuals of the Duties of Poor Law Officers. Medical Officer. London: Knight, 1849.
- Lumley, William Golden. Manuals of the Duties of Poor Law Officers: Medical Officer. 3rd ed. London: Knight, 1871.
- Lumley, William Golden. The New Lunacy Acts. London: Shaw, 1845.
- Macdonagh, Oliver. Early Victorian Government 1830-70. London: Weidenfeld and Nicolson, 1977.
- MacDonagh, Oliver. "The Nineteenth-Century Revolution in Government: A Re-Appraisal". 1 The Historical Journal (1958) 52.
- Malthus, Thomas R. An Essay on the Principle of Population; or A view of its past and present Effects on Human Happiness; With an Inquiry into our Prospects respecting the future Removal or Mitigation of the Evils which it occasions. 1803 Edition. Ed. Patricia James and Donald Winch. Cambridge: Cambridge University Press, 1992.
- Mandler, Peter. "Tories and Paupers: Christian Political Economy and the Making of the New Poor Law". 33 Historical Journal 81.
- Mandler, Peter. See also Brudage, above.
- Mayer, John A. "Notes towards a Working Definition of Social Control in Historical Analysis". In Social Control and the State: Historical and Comparative Essays. Ed. Stanley Cohen and Andrew Scull. 1983; rpt. Oxford: Blackwell, 1985.
- McCandless, Peter. "Dangerous to Themselves and Others: the Victorian Debate over the Prevention of Wrongful Confinement". 23 (1) Journal of British Studies (1983) 84.
- McCord, Norman. "The Poor Law and Philanthropy". In The New Poor Law in the Nineteenth Century. Ed. Derek Fraser. London: Macmillan, 1976, at 87.
- McLeod, Hugh. Religion and the Working Class in Nineteenth-Century Britain. London: Macmillan, 1984.
- Mellet, David J. "Bureaucracy and Mental Illness: The Commissioners in Lunacy, 1845-90". 25 Medical History (1981) 221.
- Mellet, David J. The Prerogative of Asylums: Social, Cultural and Administrative Aspects of the Institutional Treatment of the Insane in Nineteenth Century Britain. New York, London: Garland, 1982.
- Melossi, Dario. The State of Social Control: A Sociological Study of the Concepts

of State and Social Control in the Making of Democracy. Cambridge: Polity Press, 1990.

Midelfort, Erik H.C. "Madness and Civilization in Early Modern Europe: A Reappraisal of Michel Foucault". In After the Reformation: Essays in honor of J.H. Hexter. Ed. Barbara C. Malament. Manchester: Manchester University Press, 1980, at 247.

Millar, John. A Plea in favour of the Insane Poor. London: Henry Renshaw, 1859.

Moir, Esther. The Justice of the Peace. Harmondsworth: Penguin, 1969.

Mommsen, Wolfgang J. "'Toward the Iron Cage of Future Serfdom'? On the Methodological Status of Max Weber's Ideal-Typical Concept of Bureaucratization". 30 Transactions of the Royal Historical Society 5th Series (1980) 157.

Nelken, David. The Limits of the Legal Process: A Study of Landlords Law and Crime. London: Academic Press, 1983.

Nicholls, George, A History of the English Poor Law. 2 vols. New York: Putnam and London: P.S. King, 1898.

Nolan, Michael. A Treatise of the Laws for the Relief and Settlement of the Poor. 4th ed. 3 vols. London: Butterworth, 1825.

Ontario. Enquiry on Mental Competence. "Appendix III: Historical Developments in England". In Enquiry on Mental Competence: Final Report. Toronto: Queen's Printer for Ontario, 1990, at 324.

Orme, Henry, and William Brock. Leicestershire's Lunatics: The Institutional Care of Leicestershire's Lunatics during the Nineteenth Century. Leicester: Leicestershire Museums Publication No. 47, 1987.

Owen, David. English Philanthropy 1660-1960. Cambridge: Harvard University Press, 1964.

Parris, Henry. Constitutional Bureaucracy: The Development of British Central Administration since the Eighteenth Century. London: George Allen & Unwin, 1969.

Parry-Jones, William Ll. The Trade in Lunacy: A Study of Private Madhouses in England in the Eighteenth and Nineteenth Centuries. London: Routledge, 1972 and Toronto: University of Toronto Press, 1972.

Philips, David. "The Black Country Magistracy, 1835-60". 3 Midland History (1976) 161.

Philips, David. "'A Just Measure of Crime, Authority, Hunters and Blue Locusts': The 'Revisionist' Social History of Crime and the Law in Britain, 1780 - 1850". In

Social Control and the State: Historical and Comparative Essays. Ed. Stanley Cohen and Andrew Scull. 1983; rpt. Oxford: Blackwell, 1985.

Poor Law District Conference. Report of Poor Law District Conferences, 1875. London: Knight, 1876.

Pope, H.M.R. A Treatise on the Law and Practice of Lunacy. London: H. Sweet, 1877.

Pope, H.M.S. A Treatise on the Law and Practice of Lunacy. 2nd ed (1892) ed. Boome and Fowke. London: Sweet and Maxwell, 1892.

Porter, Roy. "Divided Selves and Psychiatric Violence". 6 Cycnos (1990) 95.

Porter, Roy. "History of Psychiatry in Britain". 2 History of Psychiatry (1991) 271.

Porter, Roy. Mind-Forg'd Manacles: A History of Madness in England from the Restoration to the Regency. 1987; rpt. Harmondsworth: Penguin, 1990).

Porter, Roy. A Social History of Madness: Stories of the Insane. London: Weidenfeld and Nicolson, 1987.

Poynter, J.R. Society and Pauperism: English Ideas on Poor Relief, 1795 - 1834. London: Routledge & Kegan Paul and Toronto: University of Toronto Press, 1969.

Prochaska, Frank. The Voluntary Impulse: Philanthropy in Modern Britain. London: Faber and Faber, 1988.

Renvoize, Edward. "The Association of Medical Officers of Asylums and Hospitals for the Insane, the Medico-Psychological Association, and their Presidents". In 150 Years of British Psychiatry 1841-1991. Ed. German Berrios and Hugh Freeman. London: Gaskell, 1991, at 29.

Roberts, David. Paternalism in Early Victorian England. London: Croom Helm, 1979.

Rogers, Joseph. Reminiscences of a Workhouse Medical Officer Edited with preface by Thorold Rogers. London: T. Fisher Unwin, 1889.

Rose, Michael E. The Relief of Poverty, 1834-1914 2nd ed. London: Macmillan, 1986.

Rose, Michael. "Settlement, Removal and the New Poor Law". In The New Poor Law in the Nineteenth Century. Ed. Derek Fraser. London: Macmillan, 1976, at 25.

Rothman, David. Conscience and Convenience: The Asylum and its Alternatives in Progressive America. Boston and Toronto: Little, Brown and Co., 1980.

Rothman, David J. The Discovery of the Asylum: Social Order and Disorder in the New Republic. Boston and Toronto: Little, Brown and Co., 1971.

Rothman, David J. "Social Control: The Uses and Abuses of the Concept in the History of Incarceration". In Social Control and the State: Historical and Comparative Essays. Ed. Stanley Cohen and Andrew Scull. 1983; rpt. Oxford: Blackwell, 1985.

Rubinstein, W.D. "The End of 'Old Corruption' in Britain 1780 - 1860". 101 Past and Present (1983) 55.

Rushton, Peter. "Lunatics and Idiots: Mental Disability, the Community, and the Poor Law in North-East England, 1600-1800". 32 Medical History (1988) 34.

Russell, Richard. "The Lunacy Profession and its staff in the second half of the nineteenth century, with special reference to the West Riding Lunatic Asylum." In Anatomy of Madness. Ed. William F. Bynum, et al. Vol. III. London: Tavistock, 1988, at 297.

Sankey, W.H.O. "Do the Public Asylums of England, as at present constructed, afford the greatest facilities for the care and treatment of the Insane?" 2 Journal of Mental Science (1856) 466.

Saunders, Janet. "Quarantining the weak-minded: psychiatric definitions of degeneracy and the late-Victorian asylum". In The Anatomy of Madness. Ed. William F. Bynum, et al. Vol. III. London: Routledge, 1988, at 274.

Sayer, Derek. See Corrigan.

Scull, Andrew. Decarceration: Community Treatment and the Deviant-- A Radical View. 2nd ed. Englewood Cliffs, N.J.: Prentice Hall, 1984; and Oxford: Basil Blackwell Ltd., 1984.

Scull, Andrew. "Humanitarianism or Control? Some Observations on the Historiography of Anglo-American Psychiatry". In Social Control and the State: Historical and Comparative Essays. Ed. Stanley Cohen and Andrew Scull. 1983; rpt. Oxford: Blackwell, 1985.

Scull, Andrew. "Mad-doctors and Magistrates: English psychiatry's struggle for professional autonomy in the nineteenth century". 17 Arch. Europ. Sociol. (1976) 279.

Scull, Andrew. The Most Solitary of Afflictions: Madness and Society in Britain, 1700-1900. New Haven: Yale University Press, 1993.

Scull, Andrew. Museums of Madness: The Social Organization of Insanity in Nineteenth-Century England. 1979. Rpt Harmondsworth: Penguin, 1982.

Scull, Andrew. "Psychiatry and its historians". 2 History of Psychiatry (1991) 239.

Scull, Andrew. Social Order/Mental Disorder: Anglo-American Psychiatry in Historical Perspective. London: Routledge, 1989.

Scull, Andrew. See also Cohen.

Shelford, Leonard. A Practical Treatise of the Law concerning Lunatics, Idiots, and Persons of Unsound Mind. 2nd ed. London: S. Sweet, 1847.

Showalter, Elaine. The Female Malady: Women, Madness and English Culture, 1830-1980. 1985; rpt. London: Virago, 1987.

Sim, Joe. Medical Power in Prisons: The Prison Medical Service in England, 1774-1989. Milton Keynes: Open University Press, 1990.

Smith, Dorothy. "The Social Construction of Documentary Reality". 44(4) Sociological Inquiry (1974) 257.

Smith, Dorothy E. Texts, Facts, and Femininity: Exploring the relations of ruling. London: Routledge, 1990.

Smith, Dorothy E. "Textually Mediated Social Organization". 36 International Social Science Journal (1984) 59.

Smith, Roger. Trial by Medicine: Insanity and Responsibility in Victorian Trials. Edinburgh: Edinburgh University Press, 1981.

Suzuki, Akihito. "Lunacy in seventeenth- and eighteenth-century England: analysis of Quarter Sessions records Part I". 2 History of Psychiatry (1991) 437.

Suzuki, Akihito. "Lunacy in seventeenth- and eighteenth-century England: analysis of Quarter Sessions records Part II". 3 History of Psychiatry (1992) 29.

Suzuki, Akihito. "Mind and Its Disease in Enlightenment British Medicine". Diss. University of London 1992.

Thane, Pat. "Women and the Poor Law in Victorian and Edwardian England". 6 History Workshop (1978) 29.

Thomas, William. "The Philosophic Radicals". In Pressure from Without in Early Victorian England. Ed. Patricia Hollis. London: Edward Arnold, 1974, at 52 ff.

Thompson, F.M.L. "Social Control in Victorian Britain". 34 Economic History Review 2nd ser. (1981) 180.

Thompson, Kathryn M. "The Leicester Poor Law Union, 1836 - 71". Diss. University of Leicester 1982.

Tomes, Nancy. "The Great Restraint Controversy: A Comparative Perspective on Anglo-American psychiatry in the Nineteenth Century". The Anatomy of Madness. Vol III. Ed. William F. Bynum et al. London: Routledge, 1988, at 190.

Tuke, Daniel H. "Does Civilization favour the Generation of Mental Disease?" 4 Journal of Mental Science (1858) 94.

Turner, Trevor. "'Not worth powder and shot': the public profile of the Medico-Psychological Association, c. 1851-1914." In 150 Years of British Psychiatry. Ed. G. Berrios and H. Freeman. London: Gaskell, 1991, 3.

Walker, Nigel. Crime and Insanity in England. Vol. 1: The Historical Perspective. Edinburgh: Edinburgh U.P., 1968.

Walton, J.K. "Casting out and bringing back in Victorian England: pauper lunatics, 1840-70". In The Anatomy of Madness. Vol. II. Ed. William F. Bynum et al. London: Tavistock, 1985, at 132.

Walton, John K. "Lunacy in the Industrial Revolution: A Study of Asylum Admissions in Lancashire, 1848-50". 13 Journal of Social History (1979) 1.

Watson, Stephen. "From moral imbecility to psychopathy: prison psychiatry in England 1920-1959". In Law and Mental Health: Historical, Legal, Ethical, Diagnostic and Therapeutic Aspects. Proc. of 17th International Congress of the International Academy of Law and Mental Health. 26-30 May 1991. Leuven: IALMH, 1992 at 61.

Weisbrod, Bernd. "How to become a good foundling in early Victorian London". 10 Social History (1985) 193.

White, William. History, Gazetteer, and Directory of Leicestershire, and the small County of Rutland. Sheffield: for the author, 1846.

Wiener, Martin J. Reconstructing the Criminal: Culture, Law and Policy in England, 1830-1914. Cambridge: C.U.P., 1990.

Williams, Karel. From Pauperism to Poverty. London: Routledge and Kegan Paul, 1981.

Windholz, George E. "The Explicitly stated rationale for the involuntary commitment of the mentally ill given by the nineteenth-century German-speaking psychiatrists." 17 Psychological Medicine (1987) 291.

Winslow, Forbes, M.D. An Act (8 & 9 Victoria c. 100) for the Care and Treatment of Lunatics, with Explanatory Notes and Comments. London: Benning, 1845.

Wood, Peter. Poverty and the Workhouse in Victorian Britain. Stroud: Alan Sutton Publishing, 1991.

United Kingdom. Metropolitan Commissioners in Lunacy. Report of the Metropolitan Commissioners in Lunacy to the Lord Chancellor. London: Bradbury and Evans, 1944.

United Kingdom. Royal Commission on the Poor Law. Report from His Majesty's Commissioners for Inquiring into the Administration and Practical Consequences of the Poor Laws. See Checkland.

United Kingdom. Royal Commission on the Poor Laws and Relief of Distress. Report of the Royal Commission on the Poor Laws and Relief of Distress. London: Queen's Printer, 1909.

United Kingdom. Royal Commission on the Poor Laws and Relief of Distress. Minority Report of the Poor Law Commission, 1909. London: National Committee to Promote the Break-Up of the Poor Law, 1909.

Zainaldin, Jamil S., and Peter L. Tyor. "Asylum and Society: An Approach to Institutional Change". 13 Journal of Social History (1979) 23.

Zangerl, H.E. "The Social Composition of the County Magistracy in England and Wales, 1831-1887". 9(1) Journal of British Studies (1971) 113.